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DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

GOVERNMENT

Storage

FINANCING RETIREMENT FUNDS FOR POLICE, FIREMEN, TEACHERS, AND JUDGES

OCT 4 1979

FARRELL L. LEE
KANSAS STATE UNIVERSITY

HEARINGS AND MARKUPS

BEFORE THE

SUBCOMMITTEE ON FISCAL AFFAIRS AND HEALTH

AND THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 3560 and H.R. 3939

TO ESTABLISH AN ACTUARIALLY SOUND BASIS FOR
FINANCING RETIREMENT BENEFITS FOR POLICE OFFICERS,
FIREFIGHTERS, TEACHERS, AND JUDGES

MAY 2, 4, AND 7, 1979

Serial No. 96-6

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DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Hearing—Financing Retirement Funds for Police, Firemen, Teachers, and Judges

WEDNESDAY, MAY 2, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISCAL AFFAIRS AND HEALTH,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room 1310 Longworth House Office Building, Hon. Ronald V. Dellums (chairman of the subcommittee) presiding.

Present: Representatives Dellums and McKinney.

Also present: Robert Brauer, staff assistant; Elizabeth D. Lunsford, general counsel; James T. Clark, legislative counsel; Mattie McFadden and Marilyn Elrod, staff assistants; Barbara C. Washington, minority chief counsel; Harry M. Singleton, deputy minority counsel; and Alfred S. Frank, minority staff counsel.

The CHAIRMAN. The Subcommittee on Fiscal Affairs and Health will come to order. Today we begin hearings on H.R. 3560, the District of Columbia Retirement Reform Act. Its aim is to solve a pressing fiscal problem—the unfunded pension plans of District of Columbia Police officers, firefighters, teachers, and judges.

We, in Congress, must assume responsibility for correcting past errors that allowed these pensions to continue unfunded long after the folly of such practices was brought to public attention. The Nelsen Commission in 1972 called the city's pay-as-you-go system unsound, but it took the near bankruptcy of New York City in 1976 before Congress would finally acknowledge a potential financial crisis in the Nation's Capital.

BACKGROUND OF LEGISLATION

Before home rule, Congress established the retirement plans; Congress set the benefit levels; but Congress failed to provide adequate funding. In addition, Congress mandated that the District hire an additional 2,000 policemen during the 1960's, making the force substantially larger than for cities of equivalent size.

The facts are startling. Testimony taken last year showed that the total accrued unfunded liability for the three plans was \$2.04 billion. The police and firefighters system alone was \$1.4 billion unfunded liability, and their pension payments for fiscal year 1977 equal 51.6 percent of active payroll.

Is it fair to expect the District of Columbia to pay the exorbitant costs of benefits they did not grant? Is it fair to expect the District of Columbia to bear the expense of a police force whose ratio to population exceeds that of any other city in the United States? Attempts by the city to reduce the authorized level have been rebuffed by Congress and the cost of maintaining this large force is borne by the city alone.

NEED FOR LEGISLATION

If funds are not established soon, the city will be forced into a fiscal crisis. Since 1950, the city's population declined from 802,000 to 701,000 and, according to the U.S. Census estimates, the city will continue to lose 5,000 persons per year until 1980, resulting in a steadily declining tax base. Present tax rates are at a point where to raise them may prove counterproductive, and the congressional restrictions bar imposing a reciprocal income tax. In addition, without further congressional authorization, the Federal payment is frozen at \$300 million from fiscal year 1978 on. It is, however, unjust to lay total blame on Congress.

LEGISLATIVE HISTORY

In 1974, legislation died in subcommittee because OMB failed to acknowledge a Federal responsibility to assist the District in funding retirement benefits granted prior to home rule. In 1976, the legislation was expanded to include teachers and judges as well as police and firefighters.

This legislation was reported out of full committee but was not considered by the full House because of strong opposition from OMB. In 1977, Congressman Mazzoli introduced essentially the same bill. It was amended in subcommittee and further during conference with the Senate. This bill, H.R. 6536, was passed by both Houses and sent to the President for his signature. Unfortunately he pocket-vetoed the bill indicating that it was too costly to the Federal Government and that he was not satisfied with the high disability retirement.

The legislation that passed last Congress was a result of massive testimony taken from Members of Congress, expert witnesses, the city, the employee groups—both active and retired. It was a result of cooperation and compromise by all who are affected by it.

Today we will once again hear from the city and the employee groups. We will attempt to address the issues raised by the administration as well as some concerns that have been expressed from other parties. And before I introduce our first witness for this afternoon, I would now like to yield to my distinguished colleague, the gentleman from Connecticut and ranking minority member, Mr. McKinney, as such time as he may desire.

STATEMENT OF REPRESENTATIVE STEWART B. MCKINNEY

Mr. MCKINNEY. Thank you, Mr. Chairman. The bill before us today deals with one of the most important fiscal issues currently confronting the District of Columbia government. Last Congress the House and Senate finally came to grips with the necessity of reforming a pension system which, in its present form, could bankrupt the

city government in the years to come. In passing the conference report to last year's pension bill, H.R. 6536, Members in both Houses acknowledged the longstanding responsibility which Congress has had in creating and perpetuating the present system and its accumulated liabilities.

In cities across the country, we have seen case after case of actuarially unsound pension systems disrupting the revenue schemes of local governments. New York City, at the doorstep of my own district, is perhaps the prime example of this. While critics have cited the cost of this bill as being unreasonably high, it must be remembered that it is a virtual certainty that the costs will be higher, and the political and economic risks greater, if the present system is left as it is.

H.R. 3560 provides a viable and effective framework for ameliorating those risks. It establishes an actuarially sound method of eliminating this dangerously large unfunded liability, thereby relieving an already overburdened local tax base; it ends the incentives for abusing disability benefits, and tightens the virtual carte blanche criteria for such benefits; and it imposes a stringent mandate for curtailing managerial inefficiency and waste within the system.

As the record will show, during our last session, it was clearly the will of the Congress to provide for such reforms, and were it not for a last minute veto by the President, we would not be meeting here today. However, executive inaction is no excuse for us to ignore the need for greater fiscal equity between the Federal Government and the District. I feel it is, therefore, imperative that we reaffirm our commitment to the principles of home rule and take immediate steps to pass this legislation.

Mr. Chairman, we would be another year in this room if I didn't say it once more. This is a system that was designed and implemented by men and women appointed by the President of the United States over which the citizens of this community have no control. It was passed over by two committees in the Senate, two committees in the House. It is a creature, in fact, of the Federal Government, of the House of Representatives, of the U.S. Senate, and of the executive branch.

I think that the House and Senate passed a bill last year which, in essence, still gave the city far too much burden for something over which they had no control in creating, but it was something that we had fought and fought and fought to do, and we finally did it. I think the Members of both the House and the Senate showed their responsibility for their actions in the 144-odd years that this was the last colony in the United States.

Mr. Chairman, I find it almost ridiculous that the executive branch of Government vetoed this bill when it was the people whom they had appointed from both political parties who built, created, and administered this monstrosity. I just cannot understand the advice that was given down at 1600 Pennsylvania Avenue, which turned around and said to the people in Washington, in essence, "To hell with you. We gave it to you. You pay for it. You can't do anything about it." Enough said.

THE CHAIRMAN. I thank my colleague for his learned, emotional, and to-the-point remarks.

Mr. McKINNEY. In 10 years, I have had plenty of practice.

The CHAIRMAN. Without objection, I would like to introduce into the record by reference the hearings on "Financing Retirement Funds for Police, Firemen, Teachers, and Judges"—H.R. 6536—held during the last Congress on March 21, 22, 23, April 6, and 25, 1977—Serial No. 95-3—as well as the conference report—House Report 95-1713—on the District of Columbia Retirement and Reform Act that was filed in the House on October 4, 1978.

Without objection, I would also like to introduce into the record H.R. 3560 this year's District of Columbia Retirement Reform Act which I sponsored along with the following cosponsors: Mr. Bauman, Mr. Kemp, Mr. McKinney, Mr. Fauntroy, Mr. Moffett, Mrs. Holt, Mr. Diggs, Mrs. Spellman, and Mr. Leland. Subsequently the following Members became cosponsors: Mr. Gray, Mr. Stark, Mr. Fisher, Mr. Harris, Mrs. Byron, Mr. Rodino, Mr. Barnes, and Mr. Mazzoli.

Also staff memoranda will be included.

[The bill, H.R. 3560, as introduced by Messrs. Dellums, Bauman, Kemp, McKinney, Fauntroy, Moffett, Mrs. Holt, Mr. Diggs, Mrs. Spellman, Messrs. Leland, Gray, Barnes, Harris, Fisher, Stark, Byron, and Rodino on April 10, 1979, follows:]

96th Congress 1st Session, H. R. 3560

A BILL

To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE AND TABLE OF CONTENTS

4 SECTION 1. This Act, with the following table of con-
5 tents, may be cited as the "District of Columbia Retirement
6 Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.
 Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.
 Sec. 122. District of Columbia Police Officers and Fire Fighters' Retirement Fund.
 Sec. 123. District of Columbia Teachers' Retirement Fund.
 Sec. 124. District of Columbia Judges' Retirement Fund.
 Sec. 125. Management of Retirement Funds.
 Sec. 126. Payments from the Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
 Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
 Sec. 143. Information about retirement programs.
 Sec. 144. Federal and District of Columbia payments to the Funds.
 Sec. 145. Reduction in Federal contribution for excessive cost of police officers and fire fighters' disability retirement.
 Sec. 146. Conforming amendments.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Sec. 161. Personal financial disclosure by Board members.
 Sec. 162. Annual reports.
 Sec. 163. Retirement program summary description.
 Sec. 164. Filing reports and furnishing information to participants.
 Sec. 165. Reporting of participants' benefit rights.
 Sec. 166. Public information.
 Sec. 167. Retention of records.
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PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Sec. 181. Fiduciary responsibilities.
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 Sec. 184. Prohibition against certain persons holding certain positions.
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 Sec. 186. Limitation on actions.
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- Sec. 201. Salary base period for computation of annuity.
- Sec. 202. Creditable service for full-time officials of employee organizations.
- Sec. 203. Requirements for optional retirement.
- Sec. 204. Disability retirement.
- Sec. 205. Recovery from disability.
- Sec. 206. Survivors' annuities.
- Sec. 207. Deferred annuities.
- Sec. 208. Interest on refunds and on deposits for prior service credit.
- Sec. 209. Cost-of-living adjustments of annuities.
- Sec. 210. Authority to waive collection of overpayments.
- Sec. 211. Commencing date of payment of annuities.
- Sec. 212. Payment of annuities to minors and mental incompetents.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

- Sec. 251. Cost-of-living adjustments of teachers' annuities.
- Sec. 252. Cost-of-living adjustments of judges' annuities.
- Sec. 253. Interest on teachers' refunds and deposits.
- Sec. 254. Interest on judges' redeposits.
- Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.
- Sec. 256. Termination of teachers' disability annuities based on outside earned income.

1 TITLE I—FINANCING OF RETIREMENT BENEFITS

2 PART A—FINDINGS AND PURPOSE; DEFINITIONS

3 FINDINGS AND PURPOSE

4 SEC. 101. (a) The Congress finds that the retirement
 5 benefits authorized by various Acts of Congress for the police
 6 officers, fire fighters, teachers, and judges of the District of
 7 Columbia have not been financed on an actuarially sound
 8 basis. Neither Federal payments to the District nor District
 9 of Columbia appropriations have taken into account the long-
 10 term financial requirements of the District's retirement pro-
 11 grams. As a result, the annual budget cost to the District of
 12 Columbia for annuities and refunds of deductions is growing

1 at a rapid rate and, in the case of the retirement program for
2 police officers and fire fighters, is predicted to exceed the cost
3 of salaries for active police officers and fire fighters by the
4 year 2000.

5 (b) It is the purpose of this title—

6 (1) to establish separate retirement Funds for
7 police officers and fire fighters, for teachers, and for
8 judges of the District of Columbia;

9 (2) to establish a Retirement Board with responsi-
10 bility for managing these Funds;

11 (3) to require that these Funds be managed on an
12 actuarially sound basis in order to provide proper fi-
13 nancing for the benefits to which the District's retired
14 police officers, fire fighters, teachers, and judges are
15 entitled;

16 (4) to require that the Retirement Board comply
17 with reporting and disclosure requirements similar to
18 those imposed under the Employee Retirement Income
19 Security Act of 1974; and

20 (5) to provide for Federal payments to these
21 Funds to help finance, in part, the liabilities for retire-
22 ment benefits incurred by the District of Columbia
23 prior to the establishment of self-government under the
24 District of Columbia Self-Government and Governmen-
25 tal Reorganization Act.

1 DEFINITIONS

2 SEC. 102. As used in this title:

3 (1) The term "Mayor" means the Mayor of the
4 District of Columbia.5 (2) The term "Council" means the Council of the
6 District of Columbia.7 (3) The term "Speaker" means the Speaker of the
8 House of Representatives.9 (4) The term "President pro tempore" means the
10 President pro tempore of the Senate.11 (5) The term "Board" means the District of Co-
12 lumbia Retirement Board established by section 121 of
13 this Act.14 (6) The term "Custodian of Retirement Funds"
15 means the Board, except that until such time as the
16 members of the Board are first elected and the Board
17 certifies pursuant to section 121(h) that it is assuming
18 responsibility for the Funds established by this title,
19 the term "Custodian of Retirement Funds" means the
20 Director of the Office of Budget and Financial Manage-
21 ment of the District of Columbia (established by Orga-
22 nization Order Numbered 30, Commissioner's Order
23 Numbered 72-80, April 5, 1972 (D.C. Code, title 1—
24 Appendix)).

25 (7) The term "retirement program" means—

1 (A) the program of annuities and other re-
2 tirement and disability benefits for members and
3 officers of the Metropolitan Police force and the
4 Fire Department of the District of Columbia, but
5 does not include the program of annuities and
6 other retirement and disability benefits for mem-
7 bers and officers of the United States Park Police
8 force, the Executive Protective Service, or the
9 United States Secret Service Division under the
10 Policemen and Firemen's Retirement and Disabil-
11 ity Act;

12 (B) the program of annuities and other re-
13 tirement and disability benefits for judges of the
14 courts of the District of Columbia under sub-
15 chapter III of chapter 15 of title 11 of the Dis-
16 trict of Columbia Code; or

17 (C) the program of annuities and other re-
18 tirement and disability benefits for teachers in the
19 public day schools of the District of Columbia.

20 (8) The term "State" means any State of the
21 United States, the District of Columbia, Puerto Rico,
22 the Virgin Islands, American Samoa, Guam, Wake
23 Island, and the Canal Zone.

24 (9) The term "party in interest" means—

1 (A) any person (including a member of the
2 Board) having fiduciary responsibilities under this
3 title;

4 (B) any person providing services to a Fund;

5 (C) the government of the District of Colum-
6 bia;

7 (D) an employee organization; and

8 (E) a spouse, ancestor, lineal descendant, or
9 spouse of a lineal descendant of any individual de-
10 scribed in subparagraph (A) or (B).

11 (10) The term "Fund" means the District of Co-
12 lumbia Police Officers and Fire Fighters' Retirement
13 Fund established by section 122, the District of Co-
14 lumbia Teachers' Retirement Fund established by sec-
15 tion 123, or the District of Columbia Judges' Retire-
16 ment Fund established by section 124.

17 (11) The term "current value" means fair market
18 value where available (as determined in good faith by a
19 fiduciary in accordance with regulations promulgated
20 by the Board) or otherwise the fair value (as deter-
21 mined in good faith by a fiduciary in accordance with
22 regulations promulgated by the Board), assuming an
23 orderly liquidation at the time of such determination.

24 (12) The term "future value" means a liability for
25 a given prior fiscal year expressed in terms of the price

1 level expected to prevail in a given future fiscal year,
2 adjusted at the rate of inflation used with regard to de-
3 terminations made under section 142(a)(1).

4 (13) The term "qualified public accountant"
5 means a person who is a certified public accountant,
6 certified by a regulatory authority of a State.

7 (14) The term "enrolled actuary" means an actu-
8 ary enrolled under subtitle C of title III of the Em-
9 ployee Retirement Income Security Act of 1974.

10 (15) The term "security" means a security as de-
11 fined in section 2(1) of the Securities Act of 1933.

12 (16) The term "employee organization" means
13 any labor union or any organization of any kind, or
14 any agency or employee representation committee, as-
15 sociation, group, or plan, in which individuals covered
16 by a retirement program participate and which exists
17 for the purpose, in whole or in part, of dealing with
18 the government of the District of Columbia concerning
19 such retirement program.

20 (17) The term "teacher" means a teacher as de-
21 fined in section 13 of the Act entitled "An Act for the
22 retirement of public-school teachers in the District of
23 Columbia", approved August 7, 1946 (D.C. Code, sec.
24 31-733).

1 (18) The term "judge" means a judge as defined
2 in section 11-1561(1) of title 11 of the District of Co-
3 lumbia Code.

4 (19) The term "participant" does not include an
5 officer or member of the United States Park Police
6 force, the Executive Protective Service, or the United
7 States Secret Service Division to whom the Policemen
8 and Firemen's Retirement and Disability Act applies;
9 and, unless the context requires otherwise, the term
10 "beneficiary" does not include a beneficiary under such
11 Act of any such officer or member.

12 PART B—ESTABLISHMENT OF RETIREMENT BOARD AND
13 RETIREMENT FUNDS

14 DISTRICT OF COLUMBIA RETIREMENT BOARD

15 SEC. 121. (a) There is established, as an independent
16 agency of the government of the District of Columbia, a
17 board of trustees to be known as the District of Columbia
18 Retirement Board which shall have exclusive authority and
19 discretion (subject to the requirements of this title) to manage
20 and control the Funds established by this title.

21 (b)(1) The Board shall consist of eleven members select-
22 ed as follows:

23 (A) One member or officer of the Metropolitan
24 Police force of the District of Columbia, to be elected

1 by the members and officers of the Metropolitan Police
2 force.

3 (B) One retired member or officer of the Metro-
4 politan Police force of the District of Columbia, to be
5 elected by the retired members and officers of the Met-
6 ropolitan Police force.

7 (C) One member or officer of the Fire Department
8 of the District of Columbia, to be elected by the mem-
9 bers and officers of the Fire Department.

10 (D) One retired member or officer of the Fire De-
11 partment of the District of Columbia, to be elected by
12 the retired members and officers of the Fire Depart-
13 ment.

14 (E) One teacher in the public day schools of the
15 District of Columbia, to be elected by the teachers of
16 the public day schools of the District of Columbia.

17 (F) One teacher in the public day schools of the
18 District of Columbia who is retired, to be elected by
19 the retired teachers of the public day schools of the
20 District of Columbia.

21 (G) Two individuals appointed by the Council of
22 the District of Columbia.

23 (H) Three individuals appointed by the Mayor.

24 A vacancy on the Board shall be filled in the manner in
25 which the original selection was made.

1 (2) The first election of the Board members described in
2 subparagraphs (A) through (F) of paragraph (1) shall be con-
3 ducted within six months after the date of the enactment of
4 this title in accordance with regulations which the Mayor
5 shall promulgate. Thereafter, elections shall be conducted by
6 the Board. In any such election, voting shall be by secret
7 ballot, and each individual to be represented on the Board by
8 the winner of such election shall be eligible to vote in such
9 election.

10 (3)(A) Except as provided in subparagraph (B), the
11 members of the Board shall each serve a term of four years,
12 except that a member selected to fill a vacancy occurring
13 prior to the end of the term for which his predecessor was
14 selected shall only serve until the end of such term. A
15 member may serve after the expiration of his term until his
16 successor has taken office.

17 (B) Of the members of the Board who are first select-
18 ed—

19 (i) two shall serve for a term of one year,

20 (ii) three shall serve for a term of two years,

21 (iii) three shall serve for a term of three years,

22 and

23 (iv) three shall serve for a term of four years,

24 as determined by lot at the first meeting of the Board.

1 (4) No individual shall serve more than two terms as a
2 member of the Board, except that an individual serving less
3 than two years of a term to which some other individual was
4 originally selected shall be eligible for two full terms as a
5 member of the Board and an individual serving two years or
6 more of a term to which some other individual was originally
7 selected shall be eligible for only one full term as a member
8 of the Board.

9 (5) Any individual who was selected as a member of the
10 Board under subparagraph (A), (C), or (E) of paragraph (1)
11 and who ceases to be a member or officer of the Metropolitan
12 Police force, member or officer of the Fire Department, or a
13 teacher, as the case may be, may not continue as a member
14 of the Board.

15 (6) No member of the Board may hold or be a candidate
16 for any elective office in the District of Columbia.

17 (7) No member of the Board may have any personal
18 interest, direct or indirect (except as a participant in a retire-
19 ment program), in any transaction involving assets of the
20 Funds established by this title and shall otherwise comply
21 with the standards of conduct applicable to fiduciaries in the
22 District of Columbia, as well as those standards of conduct
23 established by part E of this title.

24 (8) Not less than two of the members of the Board ap-
25 pointed by the Mayor under paragraph (1) shall be individuals

1 who have professional work experience in the banking, insur-
2 ance, or investment industry.

3 (9) Any member of the Board may be removed from the
4 Board by a vote of two-thirds of the members of the Board
5 for a breach of fiduciary responsibility with respect to a Fund
6 or for a violation of section 184.

7 (10) The Board shall elect one member of the Board to
8 be chairman of the Board. The chairman shall be elected for
9 a term of one year, but may be removed from such position
10 by a vote of two-thirds of the members of the Board.

11 (11) The Director of the Office of Budget and Financial
12 Management of the District of Columbia shall be an ex officio
13 member of the Board, but shall not vote, shall not be eligible
14 to be elected chairman of the Board, and shall not be counted
15 for purposes of a quorum.

16 (c) Subject to the availability of appropriations therefor,
17 each member of the Board shall be entitled to receive the
18 hourly equivalent of the annual rate of pay in effect for the
19 highest step of grade GS-15 of the General Schedule under
20 section 5332 of title 5, United States Code, for each hour
21 such member is engaged in the actual performance of duties
22 vested in the Board, except that any member of the Board
23 who is a full-time officer or employee of the District of Co-
24 lumbia or the United States shall not be entitled to receive

1 pay under this subsection for performance of duties vested in
2 the Board.

3 (d)(1) The Board shall meet at least once each calendar
4 quarter at a regular and specified time. It shall meet at such
5 other times as the chairman or any three members of the
6 Board may prescribe.

7 (2) Any six members shall constitute a quorum for the
8 transaction of the business of the Board.

9 (3) Except as otherwise provided in this title, actions of
10 the Board shall be determined by a majority vote of the mem-
11 bers present and voting.

12 (e) The Board shall from time to time promulgate rules
13 and regulations, adopt resolutions, issue directives for the ad-
14 ministration and transaction of its business and for the con-
15 trol of the Funds established by this title, and perform such
16 other functions as may be necessary to carry out its responsi-
17 bilities under this title.

18 (f)(1) All administrative expenses incurred by the Board
19 in carrying out this title, including compensation for the
20 members of the Board, shall be paid out of funds appropriated
21 for such purpose.

22 (2) The budget prepared and submitted by the Mayor
23 pursuant to section 442 of the District of Columbia Self-Gov-
24 ernment and Governmental Reorganization Act shall include
25 recommended expenditures at a reasonable level for the

1 forthcoming fiscal year for the administrative expenses of the
2 Board.

3 (3) The Mayor and the Council may establish the
4 amount of funds which will be allocated to the Board for
5 administrative expenses, but may not specify the purposes for
6 which such funds may be expended or the amounts which
7 may be expended for the various activities of the Board.

8 (g)(1) The Board shall engage the services of competent
9 investment counsel or counsels who shall be qualified under
10 the Investment Advisors Act of 1940. Such investment coun-
11 sel or counsels shall be fiduciaries, to the extent designated
12 by the Board, with respect to services rendered to the Board.
13 Such fiduciary relationship shall be specified in a written
14 agreement between the investment counsel or counsels and
15 the Board.

16 (2) The Board may appoint such staff as it considers
17 necessary to enable it to carry out its responsibilities under
18 this title. The staff of the Board shall be appointed subject to
19 the provisions of title 5, United States Code, governing ap-
20 pointments in the competitive service, and shall be paid in
21 accordance with the provisions of chapter 51 and subchapter
22 III of chapter 53 of such title relating to classification and
23 General Schedule pay rates, except that no staff member
24 may receive pay in excess of the annual rate of basic pay in

1 effect for GS-15 of the General Schedule under section 5332
2 of title 5, United States Code.

3 (h) Not more than ninety days after all initial members
4 of the Board have been selected in accordance with subsec-
5 tion (b) of this section, the Board shall certify in writing to
6 the Director of the Office of Budget and Financial Manage-
7 ment of the District of Columbia that the Board is assuming
8 responsibility for the Funds established by this title.

9 DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE
10 FIGHTERS' RETIREMENT FUND

11 SEC. 122. (a) There is established a fund to be known as
12 the District of Columbia Police Officers and Fire Fighters'
13 Retirement Fund into which shall be deposited the following,
14 which shall constitute the assets of the Fund:

15 (1) Any amount paid to the Custodian of Retire-
16 ment Funds pursuant to the last sentence of subsection
17 (d)(1) or to subsection (c)(5) of the Policemen and Fire-
18 men's Retirement and Disability Act or pursuant to
19 the proviso in the paragraph under the heading "Po-
20 licemen and Firemen's Relief Fund" in the Act of
21 June 14, 1935.

22 (2) Any amount appropriated for such Fund under
23 part C of this title.

24 (3) Any return on investment of the assets of such
25 Fund.

1 After September 30, 1978, or after the end of the thirty-day
2 period beginning on the date on which funds are first appro-
3 priated to the District of Columbia Police Officers and Fire
4 Fighters' Retirement Fund, whichever is later, all payments
5 of annuities and other retirement and disability benefits (in-
6 cluding refunds and lump-sum payments) under the Police-
7 men and Firemen's Retirement and Disability Act shall be
8 made from the Fund (except for any such payment which is
9 made to an officer or member of the United States Park
10 Police force, the Executive Protective Service, or the United
11 States Secret Service Division, or to a beneficiary of any
12 such officer or member).

13 (b)(1) The last sentence of subsection (d)(1) of the Po-
14 licemen and Firemen's Retirement and Disability Act (D.C.
15 Code, sec. 4-524(1)) is amended by striking out "Such" and
16 inserting in lieu thereof "In the case of a member who is an
17 officer or member of the Metropolitan Police force or the Fire
18 Department of the District of Columbia, such deductions and
19 withholdings shall be paid to the Custodian of Retirement
20 Funds (as defined in section 102(6) of the District of Colum-
21 bia Retirement Reform Act) and shall be deposited in the
22 District of Columbia Police Officers and Fire Fighters' Re-
23 tirement Fund established by section 122(a) of such Act; and
24 in the case of any other member, such".

1 (2) The proviso in the paragraph under the heading
2 "Policemen and Firemen's Relief Fund" in the Act of June
3 14, 1935 (D.C. Code, sec. 4-502), is amended by inserting
4 immediately before the period the following: ", except that
5 all moneys required to be deposited with respect to officers
6 and members of the Metropolitan Police force or the Fire
7 Department of the District of Columbia shall be paid to the
8 Custodian of Retirement Funds (as defined in section 102(6)
9 of the District of Columbia Retirement Reform Act) for de-
10 posit in the District of Columbia Police Officers and Fire
11 Fighters' Retirement Fund established by section 122(a) of
12 such Act".

13 (3) The Act entitled "An Act to credit active service in
14 the military or naval forces of the United States in determin-
15 ing eligibility for and the amount of benefits from the police-
16 men and firemen's relief fund, District of Columbia", ap-
17 proved July 21, 1947 (D.C. Code, sec. 4-504a), is amended
18 by inserting "or the District of Columbia Police Officers and
19 Fire Fighters' Retirement Fund (established by section
20 122(a) of the District of Columbia Retirement Reform Act)"
21 immediately after "District of Columbia," the first place it
22 appears.

23 (c) The amendments made by paragraphs (1) and (2) of
24 subsection (b) shall take effect at the end of the ninety-day
25 period beginning on the date of the enactment of this Act.

1 The amendment made by paragraph (3) of such subsection
2 shall take effect on such date of enactment.

3 DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

4 SEC. 123. (a) There is established a fund to be known as
5 the District of Columbia Teachers' Retirement Fund into
6 which shall be deposited the following, which shall constitute
7 the assets of the Fund:

8 (1) Any amount paid to the Custodian of Retirement
9 Funds pursuant to the Act entitled "An Act for
10 the retirement of public-school teachers in the District
11 of Columbia", approved August 7, 1946, or under the
12 Act entitled "An Act to authorize certain teachers in
13 the public schools of the District of Columbia to count
14 as creditable service for retirement purposes certain
15 periods of authorized leave without pay taken by such
16 teachers for educational purposes", approved June 27,
17 1960.

18 (2) Any asset transferred to such Fund under sub-
19 section (c).

20 (3) Any amount appropriated for such Fund under
21 part C of this title.

22 (4) Any return on investment of assets of such
23 Fund.

24 Annuities and other retirement and disability benefits (includ-
25 ing refunds and lump-sum payments) payable from the Dis-

1 trict of Columbia teachers' retirement and annuity fund es-
2 tablished by section 2 of the Act of August 7, 1946, shall
3 continue to be paid from such fund until all amounts in such
4 fund have been expended or transferred under subsection (c)
5 to the District of Columbia Teachers' Retirement Fund, and
6 thereafter such benefits shall be paid from the District of Co-
7 lumbia Teachers' Retirement Fund.

8 (b)(1) The Act entitled "An Act for the retirement of
9 public-school teachers in the District of Columbia", approved
10 August 7, 1946, is amended—

11 (A) in the first section (D.C. Code, sec.
12 31-721)—

13 (i) by adding at the end of the first paragraph
14 the following new sentence: "After the end of the
15 ninety-day period beginning on the date of the en-
16 actment of the District of Columbia Retirement
17 Reform Act, any amounts deducted and withheld
18 pursuant to this paragraph shall be paid to the
19 Custodian of Retirement Funds (as defined in sec-
20 tion 102(6) of such Act) for deposit in the District
21 of Columbia Teachers' Retirement Fund estab-
22 lished by section 123(a) of such Act.", and

23 (ii) in the first sentence of the second para-
24 graph, by striking out "Collector of Taxes, Dis-

1 trict of Columbia,” and inserting in lieu thereof
2 “Custodian of Retirement Funds”;

3 (B) in section 2 (D.C. Code, sec. 31-722), by
4 striking out “The” in the first sentence and inserting
5 in lieu thereof “Until the end of the ninety-day period
6 beginning on the date of the enactment of the District
7 of Columbia Retirement Reform Act, the”;

8 (C) in clause (ii) of paragraph (1) of section 5(b)
9 (D.C. Code, sec. 31-725(b)(1)(ii)), by striking out “re-
10 turned to the teachers’ retirement and annuity fund es-
11 tablished under section 2 of this Act” and inserting in
12 lieu thereof “repaid to the Custodian of Retirement
13 Funds (as defined in section 102(6) of the District of
14 Columbia Retirement Reform Act) for deposit in the
15 District of Columbia Teachers’ Retirement Fund estab-
16 lished by section 123(a) of such Act”;

17 (D) in section 9(a) (D.C. Code, sec. 31-729(a)),
18 by striking out “deposit in the fund” in the second pro-
19 viso and inserting in lieu thereof “repay to the Custo-
20 dian of Retirement Funds (as defined in section 102(6)
21 of the District of Columbia Retirement Reform Act) for
22 deposit in the District of Columbia Teachers’ Retire-
23 ment Fund established by section 123(a) of such Act,”;

24 (E) in clause (ii) of section 9(b)(1) (D.C. Code,
25 sec. 31-729(b)(1)), by striking out “returned to the

1 teachers' retirement and annuity fund established under
2 section 2 of this Act" and inserting in lieu thereof
3 "repaid to the Custodian of Retirement Funds (as de-
4 fined in section 102(6) of the District of Columbia Re-
5 tirement Reform Act) for deposit in the District of Co-
6 lumbia Teachers' Retirement Fund established by sec-
7 tion 123(a) of such Act"; and

8 (F) in section 17 (D.C. Code, sec. 31-737), by in-
9 serting "(including any assets of the District of Colum-
10 bia Teachers' Retirement Fund established by section
11 123(a) of the District of Columbia Retirement Reform
12 Act)" immediately after "Act".

13 (2) Section 4 of the Act entitled "An Act to increase
14 annuities payable to certain annuitants from the District of
15 Columbia teachers' retirement and annuity fund, and for
16 other purposes", approved September 2, 1958 (D.C. Code,
17 sec. 31-744), is amended by inserting immediately before the
18 period at the end of the first sentence the following: "until
19 such time as all amounts in such fund have been expended or
20 transferred under section 123(c) of the District of Columbia
21 Retirement Reform Act to the District of Columbia Teach-
22 ers' Retirement Fund established by section 123(a) of such
23 Act and thereafter from the District of Columbia Teachers'
24 Retirement Fund".

1 (3) The Act entitled "An Act to authorize certain teach-
2 ers in the public schools of the District of Columbia to count
3 as creditable service for retirement purposes certain periods
4 of authorized leave without pay taken by such teachers for
5 educational purposes", approved June 27, 1960 (D.C. Code,
6 sec. 31-745), is amended by striking out "the deposit by
7 such teacher to the credit of the teachers' retirement and
8 annuity fund of the District of Columbia" and inserting in
9 lieu thereof "payment by such teacher to the Custodian of
10 Retirement Funds (as defined in section 102(6) of the District
11 of Columbia Retirement Reform Act), for deposit in the Dis-
12 trict of Columbia Teachers' Retirement Fund established by
13 section 123(a) of such Act,".

14 (c) Notwithstanding any other provision of law, any
15 asset held in the District of Columbia teachers' retirement
16 and annuity fund established by section 2 of the Act of
17 August 7, 1946, may be transferred to the District of Colum-
18 bia Teachers' Retirement Fund established by subsection (a).

19 (d) The amendments made by subsection (b) shall take
20 effect at the end of the ninety-day period beginning on the
21 date of the enactment of this Act.

22 DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

23 SEC. 124. (a) There is established a fund to be known as
24 the District of Columbia Judges' Retirement Fund into which

1 shall be deposited the following, which shall constitute the
2 assets of the Fund:

3 (1) Any amount deposited pursuant to subchapter
4 III of chapter 15 of title 11 of the District of Columbia
5 Code.

6 (2) Any asset transferred to such Fund under sub-
7 section (c).

8 (3) Any amount appropriated for such Fund under
9 part C of this title.

10 (4) Any return on investment of the assets of such
11 Fund.

12 (b)(1) Section 11-1561(4) of title 11 of the District of
13 Columbia Code is amended by striking out "Judicial Retirement
14 and Survivors Annuity Fund as provided in section
15 11-1570" and inserting in lieu thereof "Judges' Retirement
16 Fund established by section 124(a) of the District of Colum-
17 bia Retirement Reform Act".

18 (2) Section 11-1563(a) of such title 11 is amended by
19 striking out "deposited in the fund in accordance with proce-
20 dures established by the Commissioner" and inserting in lieu
21 thereof "paid to the Custodian of Retirement Funds (as de-
22 fined in section 102(6) of the District of Columbia Retirement
23 Reform Act) for deposit in the fund".

24 (3) Section 11-1564(d)(4) of such title 11 is amended in
25 the first sentence by striking out "Judicial Retirement and

1 Survivors Annuity Fund” and inserting in lieu thereof
 2 “Judges’ Retirement Fund established by section 124(a) of
 3 the District of Columbia Retirement Reform Act”.

4 (4) Section 11-1570 of such title 11 is amended—

5 (A) in subsection (a)—

6 (i) in the first sentence, by inserting immedi-
 7 ately before the period “until such time as all
 8 amounts in such Fund have been expended or
 9 transferred to the District of Columbia Judges’
 10 Retirement Fund established by section 124(a) of
 11 the District of Columbia Retirement Reform
 12 Act”; and

13 (ii) by striking out the second and third sen-
 14 tences and inserting in lieu thereof the following:
 15 “Thereafter the retirement salaries, annuities, re-
 16 funds, and allowances provided for in this sub-
 17 chapter shall be paid from such Fund.”;

18 (B) in subsection (b)—

19 (i) by striking out “such funds” and inserting
 20 in lieu thereof “the District of Columbia Judicial
 21 Retirement and Survivors Annuity Fund”;

22 (ii) by striking out “from the fund” and in-
 23 serting in lieu thereof “under the first sentence of
 24 subsection (a)”;

1 (iii) by striking out "fund" the second place
2 it appears and inserting in lieu thereof "District of
3 Columbia Judicial Retirement and Survivors An-
4 nuity Fund"; and

5 (C) in subsection (d), by inserting "(including
6 moneys in the District of Columbia Judges' Retirement
7 Fund)" immediately after "subchapter".

8 (c) Notwithstanding any other provision of law, any
9 asset held in the District of Columbia Judicial Retirement
10 and Survivors Annuity Fund may be transferred to the Dis-
11 trict of Columbia Judges' Retirement Fund established by
12 subsection (a).

13 (d) The amendments made by subsection (b) shall take
14 effect at the end of the ninety-day period beginning on the
15 date of the enactment of this Act.

16 **MANAGEMENT OF RETIREMENT FUNDS**

17 **SEC. 125. (a)** The Custodian of Retirement Funds shall
18 be the custodian of the assets of each Fund established by
19 this title and shall manage and invest such assets in accord-
20 ance with this title.

21 (b) The assets of each Fund shall be kept separate from
22 other moneys which may be under the control of the Custodi-
23 an of Retirement Funds, but need not be kept separate from
24 the assets of the other Funds if the Board determines that

1 commingling of such assets is advisable for investment pur-
2 poses.

3 (c) The Board shall maintain, in an appropriate deposi-
4 tory, a cash reserve for the Funds in an amount determined
5 by the Board to be sufficient to meet current outlays for an-
6 nuities and other retirement and disability benefits authorized
7 to be paid from such Funds.

8 PAYMENTS FROM THE FUNDS

9 SEC. 126. The Mayor shall notify the Custodian of Re-
10 tirement Funds of any payments to be made from the Funds
11 established by this title for annuities or other retirement or
12 disability benefits (including refunds and lump-sum pay-
13 ments), and the Custodian of Retirement Funds shall make
14 such payments from the appropriate Fund.

15 PART C—FINANCING OF RETIREMENT BENEFITS

16 LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

17 SEC. 141. (a) The assets of the Funds established by
18 this title may not be invested in the following:

19 (1) Interest-bearing bonds, notes, bills, or certifi-
20 cates of indebtedness of the government of the District
21 of Columbia, the government of the Commonwealth of
22 Virginia, or the government of the State of Maryland,
23 or the government of any political subdivision thereof,
24 or of any entity subject to control by any such govern-
25 ment or any combination of any such governments.

1 (2) Obligations fully guaranteed as to the payment
2 of both principal and interest by the government of the
3 District of Columbia, the government of the Common-
4 wealth of Virginia, or the government of the State of
5 Maryland, or the government of any political subdivi-
6 sion thereof, or of any entity subject to control by any
7 such government or any combination of any such gov-
8 ernments.

9 (3) Real property in the District of Columbia, Vir-
10 ginia, or Maryland.

11 (4) Loans, mortgages, bonds, notes, bills, or certif-
12 icates of indebtedness secured, in whole or in part, by
13 real property in the District of Columbia, Virginia, or
14 Maryland.

15 (b) Until such time as the members of the Board are first
16 selected and the Board certifies pursuant to section 121(h)
17 that it is assuming responsibility for the Funds established by
18 this title, the assets of such Funds may only be invested in
19 the following:

20 (1) Interest-bearing bonds, notes, bills, or certifi-
21 cates of indebtedness of the United States Government,
22 or obligations fully guaranteed as the payment of both
23 principal and interest by the United States Govern-
24 ment.

1 (2) Interest-bearing certificates of deposit issued
2 by National, State, or District of Columbia savings and
3 loan institutions.

4 DETERMINATION OF FEDERAL AND DISTRICT OF
5 COLUMBIA PAYMENTS TO THE FUNDS

6 SEC. 142. (a)(1) The Board shall engage an enrolled
7 actuary who may be the enrolled actuary engaged pursuant
8 to section 162(a)(4)(A), who shall, on the basis of the entry
9 age normal cost funding method and in accordance with gen-
10 erally accepted actuarial principles and practices, make the
11 following determinations with respect to each Fund:

12 (A) At the times specified in paragraph (2), the
13 actuary shall determine the level percentage of payroll,
14 expressed as a percentage (hereinafter in this title re-
15 ferred to as the "net normal cost percentage"), which
16 shall be the percentage such that the amount equal to
17 the product of such percentage and the present value
18 of future compensation for participants in the retire-
19 ment program, if paid annually into the Fund from the
20 date of hire of each participant in the retirement pro-
21 gram until the date of such participant's death, retire-
22 ment, or other withdrawal from employment covered
23 by the retirement program, is equal to the amount of
24 the difference between (i) the present value of the
25 future benefits payable from the Fund to such group,

1 and (ii) the present value of all future employee contri-
2 butions to the Fund.

3 (B) At the times specified in paragraph (2), the
4 actuary shall determine the amount (hereinafter in this
5 title referred to as the "accrued actuarial liability")
6 that is the difference between (i) the present value (as
7 of the date of the determination) of the future benefits
8 payable from the Fund, and (ii) the sum of—

9 (I) the present value of all future employee
10 contributions to the Fund; and

11 (II) the product of the net normal cost per-
12 centage and the present value of future compensa-
13 tion for participants in the retirement program.

14 (C) At the times specified in paragraph (2), the
15 enrolled actuary shall determine the current value of
16 the assets in the Fund.

17 (D) Each year, not later than 60 days prior to the
18 date on which the Mayor is required to submit the
19 annual budget for the government of the District of
20 Columbia to the Council under section 442(a) of the
21 District of Columbia Self-Government and Governmen-
22 tal Reorganization Act, the enrolled actuary shall de-
23 termine—

24 (i) an estimate of the current annual active
25 duty payroll;

1 (ii) the amount (hereinafter in this title re-
2 ferred to as the "future Federal obligation") that
3 is the amount of the present value of the sum of
4 the amounts authorized by section 144(a) to be
5 appropriated to the Fund for fiscal years begin-
6 ning on or after the date of the determination; and

7 (iii) the amount (hereinafter in this title re-
8 ferred to as the "net pay-as-you-go cost") that is
9 the difference between (I) the amount of the obli-
10 gation of the Fund during the next fiscal year for
11 the payment of benefits payable from the Fund
12 during such year, and (II) the amount of employ-
13 ee contributions to the Fund for such year.

14 The actuary shall also determine such additional information
15 as the Board may require in order to make the determina-
16 tions specified in paragraph (4) and in subsection (b).

17 (2) The actuary engaged by the Board pursuant to para-
18 graph (1) shall make the determinations described in subpara-
19 graphs (A), (B), and (C) of such paragraph at the following
20 times:

21 (A) Not later than sixty days after the date of the
22 enactment of this Act.

23 (B) Upon a request by the Board or by the Direc-
24 tor of the Office of Management and Budget.

1 (C) Not later than the end of the ninety-day
2 period beginning on the first day of the third fiscal year
3 occurring after the fiscal year in which the last such
4 determination was made pursuant to any subparagraph
5 of this paragraph.

6 (3) On the basis of the most recent determinations made
7 under paragraph (1), the enrolled actuary shall certify to the
8 Board each year, at a time specified by the Board, the follow-
9 ing information with respect to each Fund for the next fiscal
10 year:

11 (A) The net normal cost, which shall be computed
12 as the product of the net normal cost percentage and
13 the estimate by the actuary of the current annual
14 active duty payroll.

15 (B) The accrued actuarial liability.

16 (C) The current value of assets in the Fund.

17 (D) The future Federal obligation.

18 (E) The net pay-as-you-go cost.

19 (F) The unfunded actuarial liability, which shall
20 be computed as the difference between the accrued ac-
21 tuarial liability and the sum of the current value of the
22 assets in the Fund and the future Federal obligation.

23 (4) The Board shall determine—

1 (A) the amount of the Federal payment for the
2 next fiscal year for each Fund authorized to be appro-
3 priated under section 144(a); and

4 (B) on the basis of the most recent certification
5 submitted by the enrolled actuary under paragraph (3),
6 the amount of the District payment for the next fiscal
7 year for each Fund, as described under subsection (b).

8 (b)(1)(A) For the District payment for each Fund for
9 each fiscal year through fiscal year 2003, the Board shall
10 determine—

11 (i) the unfunded actuarial liability for such Fund
12 as of the end of fiscal year 2003;

13 (ii) the unfunded actuarial liability as of October
14 1, 1978, in future value as of the end of fiscal year
15 2003 for such Fund; and

16 (iii) the amount equal to the lesser of (I) the net
17 pay-as-you-go cost, and (II) the sum of the net normal
18 cost and the amount of annual interest (computed at
19 the valuation rate used in the determination under sub-
20 section (a)(1)) on the unfunded actuarial liability, as
21 computed under subsection (a)(3)(F).

22 (B) If the amount determined under subparagraph (A)(i)
23 is equal to the amount determined under subparagraph (A)(ii),
24 the amount of the District payment for the fiscal year for

1 such Fund shall be the amount determined under subpara-
2 graph (A)(iii).

3 (C) If the amount determined under subparagraph (A)(i)
4 is greater than the amount determined under subparagraph
5 (A)(ii), the amount of the District payment for the fiscal year
6 for such Fund shall be the amount equal to the sum of (i) the
7 amount determined under subparagraph (A)(iii), and (ii) the
8 amount of the level amortization payment that, if paid annu-
9 ally into the Fund through the next ten fiscal years (and ac-
10 crued at the rate of interest used in the determinations under
11 subsection (a)(1), would reduce the amount determined under
12 subparagraph (A)(i) to the amount determined under subpara-
13 graph (A)(ii) by the end of such ten fiscal years.

14 (D) If the amount determined under subparagraph (A)(ii)
15 is greater than the amount determined under subparagraph
16 (A)(i), the amount of the District payment for such Fund shall
17 be the amount determined under subparagraph (A)(iii) re-
18 duced by the amount of the level amortization payment that,
19 if paid annually for the next ten fiscal years, would have a
20 future value as of the end of fiscal year 2003 equal to the
21 difference between the amount determined under subpara-
22 graph (A)(ii) and the amount determined under subparagraph
23 (A)(i).

24 (E) The amount of a District payment determined under
25 subparagraph (C) may not exceed the amount determined

1 under subparagraph (A)(iii) by more than 10 percent of the
 2 net pay-as-you-go cost, in the case of a payment to the Dis-
 3 trict of Columbia Police Officers and Fire Fighters' Retire-
 4 ment Fund, or by more than 30 percent of the net pay-as-
 5 you-go cost, in the case of a payment to the District of Co-
 6 lumbia Teachers' Retirement Fund or to the District of Co-
 7 lumbia Judges' Retirement Fund.

8 (F) Determinations under subparagraph (A) shall be
 9 made in accordance with generally accepted actuarial princi-
 10 ples and practices.

11 (2) The amount of the District payment to each Fund
 12 for fiscal year 2004 and for each fiscal year thereafter shall
 13 be the sum of (A) the net normal cost, and (B) the amount of
 14 annual interest (computed at the valuation rate used in the
 15 determination pursuant to subsection (a)(1)) on the unfunded
 16 actuarial liability.

17 (c)(1) On the basis of the most recent determinations
 18 made under subsection (a)(4), the Board shall—

19 (A) not later than March 15 of each year through
 20 calendar year 2002, submit to the President and to the
 21 Congress a request for appropriation of the Federal
 22 payment for the next fiscal year for each Fund; and

23 (B) not less than thirty days prior to the date on
 24 which the Mayor is required to submit the annual
 25 budget for the government of the District of Columbia

1 to the Council under section 442(a) of the District of
2 Columbia Self-Government and Governmental Reorga-
3 nization Act, certify to the Mayor and the Council the
4 amount of the District payment for each Fund.

5 (2) The Mayor, in preparing each annual budget for the
6 District of Columbia pursuant to section 442(a) of the Dis-
7 trict of Columbia Self-Government and Governmental Reor-
8 ganization Act, and the Council of the District of Columbia,
9 in adopting each annual budget in accordance with section
10 446 of such Act, shall include in such budget not less than
11 the full amount certified by the Board under paragraph (1)(B)
12 as being the amount of the District payment for the next
13 fiscal year for each Fund. The Mayor and the Council may
14 comment and make recommendations concerning any such
15 amount certified by the Board.

16 (d)(1) Whenever any change in benefits under a retire-
17 ment program is made, the Mayor shall engage an enrolled
18 actuary, who may be the enrolled actuary engaged pursuant
19 to section 162(a)(4)(A), to estimate the effect of such change
20 in benefits over the next five fiscal years on (A) the net
21 normal cost percentage with respect to the retirement pro-
22 gram, (B) the accrued actuarial liability with respect to the
23 retirement program, (C) the net pay-as-you-go cost with re-
24 spect to the retirement program, and (D) the level of the
25 District payments to the Fund. The Mayor shall transmit the

1 estimates of the actuary under the preceding sentence to the
2 Board and to the Speaker and the President pro tempore,
3 and such change in benefits may not go into effect until the
4 end of the thirty-day period beginning on the date such trans-
5 mittals are completed.

6 (2) In the event a change in benefits under a retirement
7 program is made that increases the present value of benefits
8 payable from the Fund, a level amortization payment for a
9 period not to exceed 25 years shall be paid by the District to
10 the Fund such that the present value of the sum of such level
11 amortization payments equals the increase in the present
12 value of such benefits. Such payments shall be made in addi-
13 tion to any other payment to the Fund required to be made
14 by the District, and such increase in present value of benefits
15 payable from the Fund and such payments shall be disregard-
16 ed in calculating the unfunded actuarial liability under sub-
17 section (b)(1)(A).

18 (e) Whenever the amount authorized to be appropriated
19 to the District of Columbia Police Officers and Fire Fighters'
20 Retirement Fund for any fiscal year under section 144(a)(1)
21 is reduced under section 145(c), the District shall, beginning
22 with the next fiscal year, pay a level amortization payment to
23 such Fund for a period not to exceed ten years such that the
24 present value (determined as of the beginning of the fiscal
25 year for which such authorization is reduced) of the sum of

1 such level amortization payments equals the amount of such
2 reduction. Such payments shall be made in addition to any
3 other payment to such Fund required to be made by the Dis-
4 trict and shall be disregarded in calculating the unfunded ac-
5 tuarial liability under subsection (b)(1)(A).

6 (f) The Comptroller General of the United States shall
7 have access to all books, accounts, records, reports, files and
8 other papers necessary to carry out the responsibility of the
9 Comptroller General under section 736(a) of the District of
10 Columbia Self-Government and Governmental Reorganiza-
11 tion Act and under section 144(e) of this Act.

12 INFORMATION ABOUT RETIREMENT PROGRAMS

13 SEC. 143. Upon a request of the Board, the Mayor shall
14 furnish to the Board such information with respect to retire-
15 ment programs to which this title applies as the Board con-
16 siders necessary to enable it to carry out its responsibilities
17 under this title and to enable the enrolled actuary engaged
18 pursuant to section 142(a) to carry out the responsibilities of
19 the enrolled actuary under this title.

20 FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE

21 FUNDS

22 SEC. 144. (a) There is authorized to be appropriated
23 from the revenues of the United States for fiscal year 1979
24 and for each fiscal year thereafter through fiscal year 2003—

1 (1) as the Federal payment to the District of Co-
2 lumbia Police Officers and Fire Fighters' Retirement
3 Fund, the sum of \$49,270,000, reduced by the amount
4 of any reduction required under section 145(c);

5 (2) as the Federal payment to the District of Co-
6 lumbia Teachers' Retirement Fund, the sum of
7 \$15,510,000; and

8 (3) as the Federal payment to the District of Co-
9 lumbia Judges' Retirement Fund, the sum of
10 \$220,000.

11 (b)(1) Amounts appropriated as a Federal payment to a
12 Fund established by this title shall not be subject to appor-
13 tionment and shall be deposited in the appropriate Fund not
14 more than thirty days after they are appropriated or thirty
15 days after the beginning of the fiscal year for which they are
16 appropriated, whichever is later.

17 (2) Amounts appropriated as a District of Columbia pay-
18 ment to a Fund established by this title shall be deposited in
19 the appropriate Fund in equal quarterly installments, the first
20 of which shall be made on the first day of the first quarter of
21 the fiscal year, or on the first day thereafter that funds for
22 such installment become available, and the remainder of
23 which shall be made on the first day of succeeding quarters of
24 the fiscal year, or on the first day thereafter that funds for
25 such installments become available.

1 (c) If at any time the balance of any Fund established by
2 this title is not sufficient to meet all obligations against such
3 Fund, such Fund shall have a claim on the revenues of the
4 District of Columbia to the extent necessary to meet such
5 obligations.

6 (d) If, for any fiscal year, the Mayor and the Council do
7 not carry out the requirements of subsections (c)(2), (d), and
8 (e) of section 142 with respect to a Fund, no funds authorized
9 to be appropriated for such Fund by this section shall be
10 available for such Fund for such fiscal year.

11 (e)(1) In the year 2003, the Comptroller General shall
12 determine whether the Federal share with respect to each
13 Fund has been paid in full by payments made pursuant to
14 appropriations authorized under subsection (a) of this section
15 and, in the case of the District of Columbia Police Officers
16 and Fire Fighters' Retirement Fund, by payments made or to
17 be made under section 142(e).

18 (2) For the purposes of this subsection, the term "Fed-
19 eral share", with respect to a Fund, means the accrued un-
20 funded liability as of October 1, 1978, for members retired
21 prior to January 2, 1975, and beneficiaries of such members.

1 REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE
2 COST OF POLICE OFFICERS AND FIRE FIGHTERS' DIS-
3 ABILITY RETIREMENT

4 SEC. 145. (a) After January 1, and before March 1, of
5 each year beginning with calendar year 1981 and ending
6 with calendar year 2002, the enrolled actuary engaged pur-
7 suant to section 142 shall, with respect to the District of
8 Columbia Police Officers and Fire Fighters' Retirement
9 Fund—

10 (1) determine the estimated present value (as of
11 the date of the determination) of the cost to the Fund
12 of the future benefits payable from such Fund for dis-
13 ability retirements under subsections (f)(1) and (g)(1) of
14 the Policemen and Firemen's Retirement and Disabil-
15 ity Act to those officers and members of the Metropoli-
16 tan Police force and the Fire Department of the Dis-
17 trict of Columbia who first became such officers or
18 members on or before the end of the ninety-day period
19 beginning on the date of the enactment of this Act and
20 who were not retired on the first day of the preceding
21 calendar year;

22 (2) determine the estimated present value (as of
23 the date of the determination) of the cost to the Fund
24 of the benefits referred to in paragraph (1) determined
25 as if such officers and members retire or had retired

1 under the provisions of subsection (f)(2) or (g)(5) of
2 such Act, as in effect on the day after the end of the
3 ninety-day period beginning on the date of the enact-
4 ment of this Act, except that in making determinations
5 under this paragraph, the enrolled actuary shall not
6 take into account reductions pursuant to subsection
7 (j)(3) of the Policemen and Firemen's Retirement and
8 Disability Act; and

9 (3) state whether the ratio of the amount deter-
10 mined under paragraph (1) to the amount determined
11 under paragraph (2) is greater than 1.02.

12 The enrolled actuary shall report the determinations and
13 statement made under paragraphs (1) through (3) for any
14 year to the Board and to the Comptroller General of the
15 United States not later than March 1 of such year.

16 (b)(1) The Board and the Comptroller General shall
17 each transmit a copy of each report by the enrolled actuary
18 under subsection (a) to the Speaker, the President pro tem-
19 pore, the Mayor, and the Council not later than March 31 of
20 the year in which the report is made, and each shall submit
21 comments on such report.

22 (2) The Comptroller General shall include in his com-
23 ments on each such report transmitted under paragraph (1) a
24 statement of whether the determinations and statement made
25 by the enrolled actuary under subsection (a) were made in

1 conformance with generally accepted actuarial practices and
2 principles and whether such determinations and statement
3 fairly present in all material respects the amounts described
4 in paragraphs (1) and (2) of such subsection.

5 (c) Notwithstanding any other provision of this Act,
6 with respect to the fiscal year commencing in any calendar
7 year in which a report of the enrolled actuary under subsec-
8 tion (a), as transmitted to the Congress in accordance with
9 subsection (b), includes a statement by the enrolled actuary
10 under paragraph (3) of subsection (a) that the ratio of the
11 estimates determined under paragraphs (1) and (2) of such
12 subsection is greater than 1.02, the amount authorized by
13 section 144(a)(1) to be appropriated to the Fund for such
14 fiscal year shall be reduced. Such reduction shall be an
15 amount equal to the product of the amount specified in such
16 section and the ratio of the number of officers and members
17 of the Metropolitan Police force and the Fire Department of
18 the District of Columbia who retired during the proceeding
19 calendar year under subsections (f)(1) and (g)(1) of the Police-
20 men and Firemen's Retirement and Disability Act to the
21 number of officers and members of the Metropolitan Police
22 force and the Fire Department of the District of Columbia
23 who first became such members prior to the end of the
24 ninety-day period beginning on the date of the enactment of
25 this Act and who retired, died, withdrew by taking out a

1 lump-sum payment or separated from active duty while eligi-
2 ble for a deferred annuity under the Policemen and Firemen's
3 Retirement and Disability Act during such year.

4 (d)(1) Notwithstanding any provision of the Policemen
5 and Firemen's Retirement and Disability Act or any other
6 provision of this Act, in any case in which any officer or
7 member of the Metropolitan Police force or the Fire Depart-
8 ment of the District of Columbia retires during calendar year
9 1979 or any subsequent calendar year through calendar year
10 2001 under subsection (f)(1) or (g)(1) of the Policemen and
11 Firemen's Disability Act, the Board of Police and Fire Sur-
12 geons shall determine, within a reasonable time and in ac-
13 cordance with regulations which the Mayor shall promulgate,
14 the percentage of impairment of such officer or member and
15 shall report such percentage of impairment to the Police and
16 Firemen's Retirement and Relief Board. In the case of such
17 officer or member, such Board shall determine, within a rea-
18 sonable time, the percentage of disability of such officer or
19 member giving due regard to—

20 (A) the nature of the injury or disease;

21 (B) the percentage of impairment reported pursu-
22 ant to the preceding sentence;

23 (C) the position in the Metropolitan Police force
24 or the Fire Department of the District of Columbia

1 held by the officer or member immediately prior to
2 such officer or member's retirement;

3 (D) the age and years of service of the officer or
4 member; and

5 (E) any other factor or circumstance which may
6 affect the capacity of the officer or member to earn
7 wages or engage in gainful activity in his disabled con-
8 dition, including the effect of the disability as it may
9 naturally extend into the future.

10 (2) The Police and Firemen's Relief Board, on or before
11 January 31 of each calendar year from 1980 through 2002,
12 shall make available to the Comptroller General and the en-
13 rolled actuary all determinations (including related docu-
14 ments and information) made during the preceding calendar
15 year pursuant to paragraph (1) of this subsection in order to
16 enable the Comptroller General and the enrolled actuary to
17 make the determinations and statement required by this
18 section.

19

CONFORMING AMENDMENTS

20 SEC. 146. (a)(1) Section 7 of the Act entitled "An Act
21 for the retirement of public-school teachers in the District of
22 Columbia", approved August 7, 1946 (D.C. Code, sec.
23 31-727), is repealed.

24 (2) Section 14 of such Act of August 7, 1946 (D.C.
25 Code, sec. 31-734), is amended—

1 (A) in the third sentence, by striking out "The"
2 and inserting in lieu thereof "Until such time as all
3 amounts in the teachers' retirement and annuity fund
4 have been expended or transferred to the District of
5 Columbia Teachers' Retirement Fund established by
6 section 123(a) of the District of Columbia Retirement
7 Reform Act, the"; and

8 (B) by striking out the fourth sentence.

9 (3) Section 15 of such Act of August 7, 1946 (D.C.
10 Code, sec. 31-735), is repealed.

11 (b) The proviso in the fourth paragraph (relating to Dis-
12 trict government retirement and relief funds) under the head-
13 ing "Compensation and Retirement Fund Expenses" in the
14 Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

15 (c)(1) Section 7 of the Act entitled "An Act for the re-
16 tirement of public-school teachers in the District of Colum-
17 bia", approved January 15, 1920 (D.C. Code, sec. 31-707),
18 is amended by striking out the second and third sentences of
19 the first paragraph.

20 (2) Section 14 of such Act of January 15, 1920 (D.C.
21 Code, sec. 31-715), is amended by striking out the third and
22 fourth sentences.

23 (3) Section 15 of such Act of January 15, 1920 (D.C.
24 Code, sec. 31-716), is repealed.

1 PART D—REPORTING AND DISCLOSURE REQUIREMENTS

2 PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

3 SEC. 161. (a) Each member of the Board shall, within
4 ninety days of his selection as a member of the Board and not
5 later than April 30 of each year thereafter, submit to the
6 Mayor, the Council, the Speaker, and the President pro tem-
7 pore a personal financial disclosure statement with respect to
8 the preceding calendar year. Such statement shall be in such
9 form as the Council may by regulation require and shall con-
10 tain such information with respect to the member's financial
11 condition as the Council may by regulation require, including
12 the following information:

13 (1) The amount and source of all income (as de-
14 fined in section 61 of the Internal Revenue Code of
15 1954) received during the year.

16 (2) The identity and category of value of each lia-
17 bility owned, directly or indirectly, that exceeds \$2,500
18 as of the last day of the year (excluding any mortgage
19 that secures real property that is the principal resi-
20 dence of such member).

21 (3) The identity and category of value of any
22 property held, directly or indirectly, in a trade or busi-
23 ness or for investment or the production of income that
24 has a fair market value of not less than \$1,000 as of
25 the last day of the year.

1 (4) The identity and category of value of any
2 transaction, whether direct or indirect, in securities or
3 commodities futures during the year in excess of
4 \$1,000 (excluding any gift to any tax-exempt organiza-
5 tion described in section 501(c)(3) of the Internal Reve-
6 nue Code of 1954), and the identity, date, and catego-
7 ry of value of any purchase or sale, whether direct or
8 indirect, of any interest in real or tangible personal
9 property during the year the value of which exceeds
10 \$1,000 at the time of such purchase or sale (excluding
11 any purchase or sale of any property that is the princi-
12 pal residence of such member or that is used as fur-
13 nishings for such principal residence).

14 (5) The nature and extent of any interest during
15 the year in any bank, insurance company, or other fi-
16 nancial institution, or in any brokerage or other securi-
17 ties or investment company.

18 (6) The nature and extent of any employment
19 during the year by any bank, insurance company, or
20 other financial institution, or by any brokerage or other
21 securities or investment company.

22 A member shall not be required to submit a personal financial
23 disclosure statement to the Speaker and the President pro
24 tempore for calendar years after calendar year 2003.

1 (b) For purposes of paragraphs (2), (3), and (4) of sub-
2 section (a), the member reporting need not specify the actual
3 amount of value of each item required to be reported under
4 such paragraphs, but shall indicate which of the following
5 categories such amount or value is within:

6 (1) Not more than \$5,000.

7 (2) Greater than \$5,000 but not more than
8 \$15,000.

9 (3) Greater than \$15,000 but not more than
10 \$50,000.

11 (4) Greater than \$50,000 but not more than
12 \$100,000.

13 (5) Greater than \$100,000.

14 ANNUAL REPORTS

15 SEC. 162. (a)(1)(A) The Board shall publish an annual
16 report for each fiscal year (beginning with fiscal year 1979)
17 with respect to each retirement program to which this title
18 applies and with respect to the Fund for such retirement pro-
19 gram. Such report shall be filed with the Mayor, the Council,
20 the Speaker, and the President pro tempore in accordance
21 with section 164(a) and shall be made available and furnished
22 to participants and beneficiaries in accordance with section
23 164(b).

1 (B) The annual report shall include the information de-
2 scribed in subsections (b), (c), (d), and (e) and, when applica-
3 ble, subsection (f), and shall also include—

4 (i) the financial statement and opinion required by
5 paragraph (3) of this subsection; and

6 (ii) the actuarial statement and opinion required
7 by paragraph (4) of this subsection.

8 (2) If some or all of the information needed to enable the
9 Board to comply with the requirements of this title is main-
10 tained by—

11 (A) an insurance carrier or other organization
12 which provides some or all of the benefits under the
13 retirement program, or holds assets of the Fund for
14 such retirement program in a separate account;

15 (B) a bank or similar institution which holds some
16 or all of the assets of the Fund in a common or collec-
17 tive trust or a separate trust, or custodial account; or

18 (C) the Mayor (or the Police and Firemen's Re-
19 tirement and Relief Board, established pursuant to sec-
20 tion 122 of the Act of September 3, 1974, in carrying
21 out the Mayor's responsibilities under the Policemen
22 and Firemen's Retirement and Disability Act);

23 such carrier, organization, bank, or institution, or the Mayor,
24 shall transmit and certify the accuracy of such information to
25 the Board within one hundred and twenty days after the end

1 of the fiscal year (or such other date as may be prescribed
2 under regulations of the Board).

3 (3)(A) Except as provided in subparagraphs (C), the
4 Board shall engage an independent qualified public account-
5 ant who shall conduct such examination of any financial
6 statements of the Fund, and of other books and records of the
7 Fund or the retirement program, as the accountant may
8 deem necessary to enable the accountant to form an opinion
9 as to whether the financial statements and schedules required
10 to be included in the annual report by subsection (b) of this
11 section are presented fairly in conformity with generally ac-
12 cepted accounting principles applied on a basis consistent
13 with that of the preceding year. Such examination shall be
14 conducted in accordance with generally accepted auditing
15 standards and shall involve such tests of the books and rec-
16 ords of the Fund and the retirement program as are consid-
17 ered necessary by the independent qualified public account-
18 ant. The independent qualified public accountant shall also
19 offer his opinion as to whether the separate schedules speci-
20 fied in subsection (b)(2) of this section and the summary ma-
21 terial required under section 164(b)(2) present fairly, and in
22 all material respects, the information contained therein when
23 considered in conjunction with the financial statements taken
24 as a whole. The opinion by the independent qualified public
25 accountants shall be made a part of the annual report.

1 (B) In offering his opinion under this section, the ac-
2 countant may rely on the correctness of any actuarial matter
3 certified to by an enrolled actuary if he so states his reliance.

4 (C) The opinion required by subparagraph (A) need not
5 be expressed as to any statements required by subsection
6 (b)(2)(G) prepared by a bank or similar institution or insur-
7 ance carrier regulated and supervised and subject to periodic
8 examination by a State or Federal agency if such statements
9 are certified by the bank, similar institution, or insurance car-
10 rier as accurate and are made a part of the annual report.

11 (4)(A) The Board shall engage an enrolled actuary who
12 shall be responsible for the preparation of the materials com-
13 prising the actuarial statement required under subsection (d)
14 of this section.

15 (B) The enrolled actuary shall utilize such assumptions
16 and techniques as are necessary to enable him to form an
17 opinion as to whether the contents of the matters reported
18 under subsection (d) of this section—

19 (i) are in the aggregate reasonably related to the
20 experience of the Fund and the retirement program
21 and to reasonable expectations; and

22 (ii) represent his best estimate of anticipated expe-
23 rience under the Fund and the retirement program.

24 The opinion by the enrolled actuary shall be made with re-
25 spect to, and shall be made a part of, each annual report.

1 (C) In making a certification under this section, the en-
2 rolled actuary may rely on the correctness of any accounting
3 matter under subsection (b) as to which any qualified public
4 accountant has expressed an opinion if he so states his reli-
5 ance.

6 (b)(1) An annual report under this section shall include a
7 financial statement containing a statement of assets and li-
8 abilities, and a statement of changes in net assets available
9 for benefits under the retirement program, which shall in-
10 clude details of revenues and expenses and other changes
11 aggregated by general source and application. In the notes to
12 financial statements, disclosures concerning the following
13 items shall be considered by the accountant: A description of
14 the retirement program, including any significant changes in
15 the retirement program made during the period and the
16 impact of such changes on benefits; the funding policy (in-
17 cluding the policy with respect to prior service cost), and any
18 changes in such policy during the year; a description of any
19 significant changes in benefits made during the period; a de-
20 scription of material lease commitments, other commitments,
21 and contingent liabilities; a description of agreements and
22 transactions with persons known to be parties in interest; and
23 any other matters necessary to fully and fairly present the
24 financial statements of the Fund.

1 (2) The statement required under paragraph (1) shall
2 have attached the following information in separate sched-
3 ules:

4 (A) A statement of the assets and liabilities of the
5 Fund, aggregated by categories and valued at their
6 current value, and the same data displayed in compara-
7 tive form for the end of the previous fiscal year.

8 (B) A statement of receipts in and disbursements
9 from the Fund during the preceding twelve-month
10 period, aggregated by general source and application.

11 (C) A schedule of all assets held for investment
12 purposes, aggregated and indentified by issuer, borrow-
13 er, or lessor, or similar party to the transaction (includ-
14 ing a notation as to whether such party is known to be
15 a party in interest), maturity date, rate of interest, col-
16 lateral, par or maturity value, cost, and current value.

17 (D) A schedule of each transaction involving a
18 person known to be a party in interest, the identity of
19 such party in interest and his relationship or that of
20 any other party in interest to the Fund, a description
21 of each asset to which the transaction relates; the pur-
22 chase or selling price in case of a sale or purchase, the
23 rental in case of a lease, or the interest rate and
24 maturity date in case of a loan; expenses incurred in
25 connection with the transaction; the cost of the asset,

1 the current value of the asset, and the net gain or loss
2 on each transaction.

3 (E) A schedule of all loans or fixed income obliga-
4 tions which were in default as of the close of the fiscal
5 year or were classified during the year as uncollectable
6 and the following information with respect to each loan
7 on such schedule (including a notation as to whether
8 parties involved are known to be parties in interest):
9 The original principal amount of the loan, the amount
10 of principal and interest received during the reporting
11 year, the unpaid balance, the identity and address of
12 the obligor, a detailed description of the loan (including
13 date of making and maturity, interest rate, the type
14 and value of collateral, and other material terms), the
15 amount of principal and interest overdue (if any) and
16 an explanation thereof.

17 (F) A list of all leases which were in default or
18 were classified during the year as uncollectable and the
19 following information with respect to each lease on
20 such list (including a notation as to whether parties in-
21 volved are known to be parties in interest): The type of
22 property leased (and, in the case of fixed assets such as
23 land, buildings, and leaseholds, the location of the
24 property); the identity of the lessor or lessee from or to
25 whom the Fund is leasing; the relationship of such les-

1 sors and lessees, if any, to the Fund, the government
2 of the District of Columbia, any employee organization,
3 or any other party in interest; the terms of the lease
4 regarding rent, taxes, insurance, repairs, expenses, and
5 renewal options; the date the leased property was pur-
6 chased and its cost; the date the property was leased
7 and its approximate value at such date, the gross
8 rental receipts during the reporting period, expenses
9 paid for the leased property during the reporting
10 period, the net receipts from the lease, the amounts in
11 arrears, and a statement as to what steps have been
12 taken to collect amounts due or otherwise remedy the
13 default.

14 (G) The most recent annual statement of assets
15 and liabilities of any common or collective trust main-
16 tained by a bank or similar institution in which some
17 or all the assets of the Fund are held, of any separate
18 account maintained by an insurance carrier in which
19 some or all of the assets of the Fund are held, and of
20 any separate trust maintained by a bank as trustee in
21 which some or all of the assets of the Fund are held,
22 and in the case of a separate account or a separate
23 trust, such other information as may be required by the
24 Board in order to comply with this subsection.

1 (H) A schedule of each reportable transaction, the
2 name of each party to the transaction (except that, in
3 the case of an acquisition or sale of a security on the
4 market, the report need not identify the person from
5 whom the security was acquired or to whom it was
6 sold) and a description of each asset to which the
7 transaction applies; the purchase or selling price in
8 case of a sale or purchase, the rental in case of a
9 lease, or the interest rate and maturity date in case of
10 a loan; expenses incurred in connection with the trans-
11 action; the cost of the asset, the current value of the
12 asset, and the net gain or loss on each transaction.

13 (3) For purposes of subparagraph (H) of paragraph (2),
14 the term "reportable transaction" means a transaction to
15 which the Fund is a party and which is—

16 (A) a transaction involving an amount in excess of
17 3 percent of the current value of the assets of the
18 Fund;

19 (B) any transaction (other than a transaction re-
20 specting a security) which is part of a series of transac-
21 tions with or in conjunction with a person in a fiscal
22 year, if the aggregate amount of such transactions
23 exceed 3 percent of the current value of the assets of
24 the Fund;

1 (C) a transaction which is part of a series of
2 transactions respecting one or more securities of the
3 same issuer, if the aggregate amount of such transac-
4 tions in the fiscal year exceeds 3 percent of the current
5 value of the assets of the Fund; or

6 (D) a transaction with or in conjunction with a
7 person respecting a security, if any other transaction
8 with or in conjunction with such person in the fiscal
9 year respecting a security is required to be reported by
10 reason of subparagraph (A).

11 (c) The Board shall furnish as a part of an annual report
12 under this section the following information:

13 (1) The number of individuals covered by the re-
14 tirement program.

15 (2) The name and address of each member of the
16 Board.

17 (3) Except in the case of a person whose compen-
18 sation is minimal (as determined under regulations of
19 the Council, which regulations the Council shall initial-
20 ly promulgate within ninety days after the date of the
21 enactment of this Act) and who performs solely minis-
22 terial duties (as determined under such regulations),
23 the name of each person (including any consultant,
24 broker, trustee, accountant, insurance carrier, actuary,
25 administrator, investment counsel, or custodian who

1 rendered services to the Board or who had transactions
2 with the Board) who directly or indirectly received
3 compensation from the Board during the preceding
4 year for services rendered to the Board or the partici-
5 pants or beneficiaries of the retirement program for
6 which a Fund was established, the amount of such
7 compensation, the nature of his services, his relation-
8 ship, if any, to the District of Columbia government or
9 any employee organization, and any other officer, posi-
10 tion or employment he holds with any party in interest.

11 (4) An explanation of the reason for any change
12 in appointment of any accountant, insurance carrier,
13 enrolled actuary, or investment counsel appointed by
14 the Board.

15 (5) Such other financial and actuarial information
16 as the Council may by regulation prescribe.

17 (d) An annual report under this section for a fiscal year
18 shall include a complete actuarial statement applicable to the
19 fiscal year which shall include the following information:

20 (1) The date of the actuarial valuation applicable
21 to the fiscal year for which the report is filed.

22 (2) The date and amount of the payments to the
23 Fund for the fiscal year for which the report is filed
24 and contributions for prior fiscal years not previously

1 reported, including payments by the participants, the
2 United States, and the District of Columbia.

3 (3) The following information applicable to the
4 fiscal year for which the report is filed:

5 (A) The amounts determined under section
6 142(a)(1).

7 (B) The accrued liabilities.

8 (C) An identification of benefits not included
9 in the calculation.

10 (D) A statement of the other facts and actu-
11 arial assumptions and methods used to determine
12 costs.

13 (E) A justification for any change in actuar-
14 ial assumptions or cost methods.

15 (4) The number of participants and beneficiaries
16 covered by the retirement program.

17 (5) A certification of the amount of the payments
18 to the Fund necessary to reduce the accumulated fund-
19 ing deficiency to zero.

20 (6) A statement by the enrolled actuary of any
21 change in actuarial assumptions made with respect to
22 the Fund during the year.

23 (7) A statement by the enrolled actuary of the es-
24 timated current value of vested benefits under the re-
25 tirement program.

1 (8) A statement by the enrolled actuary that to
2 the best of his knowledge the report is complete and
3 accurate.

4 (9) A copy of the opinion required by subsection
5 (a)(4).

6 (10) Such other information regarding the retire-
7 ment program as the Council may by regulation
8 require.

9 (11) Such other information as the enrolled actu-
10 ary may determine is necessary to fully and fairly dis-
11 close the actuarial position of the Fund.

12 The actuary shall make an actuarial valuation of the Fund
13 for every third fiscal year, unless he determines that a more
14 frequent valuation is necessary to support his opinion under
15 subsection (a)(4) of this section.

16 (e) A report under this section for a fiscal year shall
17 include a statement prepared by the Board of—

18 (1) the relative riskiness of the investments during
19 the fiscal year of the assets of the Fund;

20 (2) a comparison of the average return on the in-
21 vestments of the Fund during the year with the aver-
22 age return on the investments of other public pension
23 funds during the year that have comparable asset valu-
24 ation; and

1 (3) the average daily balance of, and the average
2 rate earned by, assets of the Fund in each of any time
3 or demand deposits during the year.

4 (f) If some or all of the benefits under the retirement
5 program are purchased from and guaranteed by an insurance
6 company, insurance service, or other similar organization, a
7 report under this section shall include a statement from such
8 insurance company, service, or other similar organization
9 covering the fiscal year and enumerating—

10 (1) the premium rate or subscription charge and
11 the total premium or subscription charges paid to each
12 such carrier, insurance service, or other similar organi-
13 zation and the approximate number of persons covered
14 by each class of such benefits; and

15 (2) the total amount of premiums received, the ap-
16 proximate number of persons covered by each class of
17 benefits, and the total claims paid by such company,
18 service, or other organization; dividends or retroactive
19 rate adjustments, commissions, and administrative
20 service or other fees or other specific acquisition costs
21 paid by such company, service, or other organization;
22 any amounts held to provide benefits after retirement;
23 the remainder of such premiums; and the names and
24 addresses of the brokers, agents, or other persons to

1 whom commissions or fees were paid, the amount paid
2 to each, and for what purpose.

3 If any such company, service, or other organization does not
4 maintain separate experience records covering the specific
5 groups it serves, the report shall include, in lieu of the infor-
6 mation required by paragraph (2), a statement as to the basis
7 of its premium rate or subscription charge, the total amount
8 of premiums or subscription charges received from the Fund,
9 and a copy of the financial report of the company, service, or
10 other organization and, if such company, service, or organi-
11 zation incurs specific costs in connection with the acquisition
12 or retention of any particular Fund or Funds, a detailed
13 statement of such costs.

14 RETIREMENT PROGRAM SUMMARY DESCRIPTION

15 SEC. 163. (a)(1) A summary description of each retire-
16 ment program to which this Act applies shall be furnished to
17 participants and beneficiaries as provided in section 164(b).
18 The summary description shall include the information speci-
19 fied in subsection (b) of this section, shall be written in a
20 manner calculated to be understood by the average partici-
21 pant or beneficiary, and shall be sufficiently accurate and
22 comprehensive to reasonably apprise such participants and
23 beneficiaries of their rights and obligations under the retire-
24 ment program.

1 (2) A summary of any material modification in the terms
2 of the retirement program and any change in the information
3 required under subsection (b), written in a manner calculated
4 to be understood by the average participant or beneficiary,
5 shall be furnished in accordance with section 164(b)(1).

6 (b) Each summary description of a retirement program
7 shall contain the following information: The name and type of
8 administration of the retirement program; the name and ad-
9 dress of the chairman of the Board, who shall be the agent of
10 the Board for the service of legal process; the name, title,
11 and address of each member of the Board; a description of
12 the relevant provisions of applicable collective-bargaining
13 agreements; the retirement program's requirements respect-
14 ing eligibility for participation and benefits; a description of
15 the provisions providing for nonforfeitable pension benefits;
16 circumstances which may result in disqualification, ineligibil-
17 ity, or denial or loss of benefits; the identity of any organiza-
18 tion through which benefits are provided; the procedures to
19 be followed in presenting claims for benefits under the retire-
20 ment program; and the remedies available under the retire-
21 ment program for the redress of claims that are denied in
22 whole or in part.

1 FILING REPORTS AND FURNISHING INFORMATION TO
2 PARTICIPANTS

3 SEC. 164. (a)(1) The Board shall file with the Mayor,
4 the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

10 (C) a revised summary description of a retirement
11 program, incorporating any material modification in the
12 terms of the retirement program, within sixty days
13 after such modification is adopted or occurs.

14 The Mayor shall make copies of such retirement program
15 descriptions and annual reports available for public inspection
16 in an appropriate location. The Board shall also furnish to
17 the Mayor, the Council, the Speaker, and the President pro
18 tempore, upon request, any documents relating to the retire-
19 ment program or the Fund, including any bargaining agree-
20 ment, trust agreement, contract, or other instrument under
21 which the retirement program or Fund is operated.

22 (2)(A) The Mayor or the Council may reject any filing
23 under this section within thirty days of such filing—

24 (i) upon determining that such filing is incomplete
25 for purposes of this part; or

1 (ii) upon determining that there is any material
2 qualification by an accountant or actuary contained in
3 an opinion submitted pursuant to section 162(a)(3)(A)
4 or section 162(a)(4)(B).

5 (B) If the Mayor or the Council rejects a filing of a
6 report under subparagraph (A), and if a revised filing satisfac-
7 tory to the Mayor or the Council is not submitted within
8 forty-five days after the determination under subparagraph
9 (A) to reject the filing is made, and if the Mayor or the Coun-
10 cil considers it in the best interest of the participants, then
11 the Mayor or the Council may take any one or more of the
12 following actions:

13 (i) Retain an independent qualified public account-
14 ant on behalf of the participants to perform an audit.

15 (ii) Retain an enrolled actuary on behalf of the
16 participants to prepare an actuarial statement.

17 (iii) Bring a civil action for such legal or equitable
18 relief as may be appropriate to enforce the provisions
19 of this title.

20 The Board shall permit any accountant or actuary so re-
21 tained to inspect whatever books and records of the Fund are
22 necessary for such audit.

23 (3)(A) Either House of Congress may reject any filing
24 under this section within thirty days of such filing by adopt-
25 ing a resolution stating that such House has determined—

1 (i) that such filing is incomplete for purposes of
2 this part; or

3 (ii) that there is any material qualification by an
4 accountant or actuary contained in an opinion submit-
5 ted pursuant to section 162(a)(3)(A) or section
6 162(a)(4)(B).

7 (B) If either House of Congress rejects a report under
8 subparagraph (A) and if either a revised filing is not submit-
9 ted within forty-five days after adoption of the resolution
10 under subparagraph (A) rejecting the initial filing or such re-
11 vised filing is rejected by either House of Congress by adop-
12 tion of a resolution within thirty days after submission of the
13 revised filing, then either House of Congress may, if it deems
14 it in the best interests of the participants, take any one or
15 more of the following actions:

16 (i) Retain an independent qualified public account-
17 ant on behalf of the participants to perform an audit.

18 (ii) Retain an enrolled actuary on behalf of the
19 participants to prepare an actuarial statement.

20 The Board and the Mayor shall permit any accountant or
21 actuary so retained to inspect whatever books and records of
22 the Fund and the retirement program are necessary for per-
23 forming such audit or preparing such statement.

24 (C) If a revised filing is rejected under subparagraph (B)
25 or if a filing required under this title is not made by the date

1 specified, no funds appropriated for the Fund with respect to
2 which such filing was required as part of the Federal pay-
3 ment may be paid to the Fund until such time as an accept-
4 able filing is made. For purposes of this subparagraph, a
5 filing is unacceptable if, within thirty days of its submission,
6 either House of Congress adopts a resolution disapproving
7 such filing.

8 (b) Publication of the summary retirement program de-
9 scriptions and annual reports shall be made to participants
10 and beneficiaries as follows:

11 (1) The Board shall furnish to each participant,
12 and to each beneficiary receiving benefits under the re-
13 tirement program, a copy of the summary retirement
14 program description and all modifications and changes
15 referred to in section 163(a) within ninety days after he
16 becomes a participant or in the case of a beneficiary,
17 within ninety days after he first receives benefits. The
18 Board shall furnish to each participant, and to each
19 beneficiary receiving benefits under the retirement pro-
20 gram, every fifth year an updated summary retirement
21 program description described in section 163 which in-
22 tegrates all retirement program amendments made
23 within such five-year period, except that in a case
24 where no amendments have been made to a retirement
25 program during such five-year period this sentence

1 shall not apply. Notwithstanding the foregoing sen-
2 tence, the Board shall furnish to each participant, and
3 to each beneficiary receiving benefits under the retire-
4 ment program, the summary retirement program de-
5 scription described in section 163 every tenth year. If
6 there is a modification or change described in section
7 163(a), a summary description of such modification or
8 change shall be furnished to each participant and to
9 each beneficiary who is receiving benefits under the re-
10 tirement program not later than two hundred and ten
11 days after the end of the fiscal year in which the
12 change is adopted.

13 (2) The Board shall make copies of the latest
14 annual report and of any bargaining agreement, trust
15 agreement, contract, or other instruments under which
16 the retirement program or the Fund is operated availa-
17 ble for examination by any participant or beneficiary in
18 the principal office of the Board and in such other
19 places as may be necessary to make available all perti-
20 nent information to all participants (including such
21 places as the Council may by regulation prescribe).

22 (3) Within two hundred and ten days after the
23 close of the fiscal year, the Board shall furnish to each
24 participant, and to each beneficiary receiving benefits
25 under the retirement program, a copy of the state-

1 ments and schedules described in subparagraphs (A)
 2 and (B) of section 162(b)(2) for such fiscal year and
 3 such other material as is necessary to fairly summarize
 4 the latest annual report.

5 (4) The Board shall, upon written request of any
 6 participant or beneficiary, furnish a copy of the latest
 7 updated summary retirement program description, the
 8 latest annual report, and any bargaining agreement,
 9 trust agreement, contract, or other instruments under
 10 which the retirement program or Fund is operated.
 11 The Board may make a reasonable charge to cover the
 12 cost of furnishing such copies. The Council may by
 13 regulation prescribe the maximum amount that will
 14 constitute a reasonable charge under the preceding
 15 sentence.

16 (c) The Council may by regulation require that the
 17 Board furnish to each participant and to each beneficiary re-
 18 ceiving benefits under a retirement program a statement of
 19 the rights of participants and beneficiaries under this title.

20 REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

21 SEC. 165. (a) The Board shall furnish to any participant
 22 or beneficiary who so requests in writing, a statement indi-
 23 cating, on the basis of the latest available information—

24 (1) the total benefits accrued, and

1 (2) the nonforfeitable retirement benefits, if any,
2 which have accrued, or the earliest date on which
3 benefits will become nonforfeitable.

4 (b) A participant or beneficiary is not entitled to receive
5 more than one report under subsection (a) during any twelve-
6 month period.

7

PUBLIC INFORMATION

8 SEC. 166. (a) Except as provided in subsection (b), the
9 contents of the descriptions, annual reports, statements, and
10 other documents filed with the Mayor, the Council, the
11 Speaker, and the President pro tempore pursuant to this part
12 shall be public information, and the Mayor, the Council, the
13 Speaker, and the President pro tempore shall each make
14 such documents available for inspection in an appropriate lo-
15 cation. The Mayor, the Council, the Speaker, and the Presi-
16 dent pro tempore may use the information and data in such
17 documents for statistical and research purposes and may
18 compile and publish such studies, analyses, reports, and sur-
19 veys based thereon as may be considered appropriate.

20 (b) Information described in section 165(a) with respect
21 to a participant or beneficiary of a retirement program may
22 be disclosed only to the extent that information respecting
23 that participant's or beneficiary's benefits under title II of the
24 Social Security Act may be disclosed under such Act.

1 (c) Except to the extent that information which is pro-
2 tected from public disclosure under subsection (b), or which
3 relates to personnel matters the disclosure of which would
4 constitute a clearly unwarranted invasion of personal privacy,
5 is involved, all meetings of the Board shall be open to the
6 public.

7 RETENTION OF RECORDS

8 SEC. 167. The Board shall maintain records on the mat-
9 ters required to be disclosed by this title which will provide in
10 sufficient detail the necessary basic information and data
11 from which the required documents may be verified, ex-
12 plained, or clarified, and checked for accuracy and complete-
13 ness, shall include vouchers, worksheets, receipts, and appli-
14 cable resolutions in such records, and shall keep such records
15 available for examination for a period of not less than six
16 years after the filing date of the documents based on the
17 information which they contain. Except to the extent that
18 information is involved which is protected from public disclo-
19 sure under section 166(b), all such records shall be available
20 for inspection by the public.

21 ADDITIONAL INFORMATION

22 SEC. 168. (a) In addition to the information specifically
23 required to be furnished by this part, the Board shall furnish
24 promptly such additional information as the Mayor, the

1 Council, the Speaker, or the President pro tempore may
2 request.

3 (b) The Board shall, at regular intervals to be deter-
4 mined by the Board, compile and publish all regulations then
5 in effect which were issued by the Board or the Council
6 under this title.

7

CRIMINAL PENALTIES

8 SEC. 169. Whoever willfully violates any provision of
9 this part (other than sections 165 and 168), or any regulation
10 or order issued under any such provision, shall be fined not
11 more than \$5,000 or imprisoned not more than one year, or
12 both, except that in the case of such a violation by a person
13 not an individual, such person shall be fined not more than
14 \$100,000.

15 PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

16

FIDUCIARY RESPONSIBILITIES

17 SEC. 181. (a)(1) The Board and each member of the
18 Board shall discharge responsibilities with respect to a Fund
19 as a fiduciary with respect to such Fund. The Board may
20 designate one or more other persons who exercise responsi-
21 bilities with respect to a Fund to exercise such responsibil-
22 ities as a fiduciary with respect to such Fund. The Board
23 shall retain such fiduciary responsibility for the exercise of
24 careful, skillful, prudent, and diligent oversight of any person
25 so designated as would be exercised by a prudent individual

1 acting in a like capacity and familiar with such matters under
2 like circumstances.

3 (2) A fiduciary shall discharge his duties with respect to
4 a Fund solely in the interest of the participants and beneficia-
5 ries and—

6 (A) for the exclusive purpose of providing benefits
7 to participants and their beneficiaries;

8 (B) with the care, skill, prudence, and diligence
9 under the circumstances then prevailing that a prudent
10 individual acting in a like capacity and familiar with
11 such matters would use in the conduct of an enterprise
12 of a like character and with like aims;

13 (C) by diversifying the investments of the Fund so
14 as to minimize the risk of large losses, unless under
15 the circumstances it is clearly prudent not to do so;
16 and

17 (D) in accordance with the provisions of law, doc-
18 uments, and instruments governing the retirement pro-
19 gram to the extent that such documents and instru-
20 ments are consistent with the provisions of this title.

21 (b) In addition to any liability which he may have under
22 any other provision of this part, a fiduciary with respect to a
23 Fund shall be liable for a breach of fiduciary responsibility of
24 another fiduciary with respect to the same Fund—

1 (1) if he knowingly participates in, or knowingly
2 undertakes to conceal, an act or omission of such other
3 fiduciary, knowing such act or omission is a breach of
4 fiduciary responsibility;

5 (2) if, by his failure to comply with subsection
6 (a)(2) in the administration of his specific responsibil-
7 ities which give rise to his status as a fiduciary, he has
8 enabled such other fiduciary to commit a breach of fi-
9 ducuary responsibility; or

10 (3) if he has knowledge of a breach of fiduciary
11 responsibility by such other fiduciary, unless he makes
12 reasonable efforts under the circumstances to remedy
13 the breach.

14 (c) Except as provided in subsection (f), a fiduciary with
15 respect to a Fund shall not cause the Fund to engage in a
16 transaction, if he knows or should know that such transaction
17 constitutes a direct or indirect—

18 (1) sale or exchange, or leasing, of any property
19 between the Fund and a party in interest;

20 (2) lending of money or other extension of credit
21 between the Fund and a party in interest;

22 (3) furnishing of goods, services, or facilities be-
23 tween the Fund and a party in interest; or

24 (4) transfer to, or use by or for the benefit of, a
25 party in interest, of any assets of the Fund.

1 (d) A fiduciary with respect to a Fund shall not—

2 (1) deal with the assets of the Fund in his own
3 interest or for his own account;

4 (2) in his individual or in any other capacity act in
5 any transaction involving the Fund on behalf of a party
6 (or represent a party) whose interests are adverse to
7 the interests of the Fund or the interests of its partici-
8 pants or beneficiaries; or

9 (3) receive any consideration for his own personal
10 account from any party dealing with such Fund in con-
11 nection with a transaction involving the assets of the
12 Fund.

13 (e) A transfer of real or personal property by a party in
14 interest to a Fund shall be treated as a sale or exchange if
15 the property is subject to a mortgage or similar lien which
16 the Fund assumes or if it is subject to a mortgage or similar
17 lien which a party in interest placed on the property within
18 the ten-year period ending on the date of the transfer.

19 (f) The prohibitions provided in subsection (c) shall not
20 apply to any of the following transactions:

21 (1) Contracting or making reasonable arrange-
22 ments with a party in interest for office space, or legal,
23 accounting, or other services necessary for the estab-
24 lishment or operation of the Fund, if no more than rea-
25 sonable compensation is paid therefor.

1 (2) The investment of all or part of a Fund's
2 assets in deposits which bear a reasonable interest rate
3 in a bank or similar financial institution supervised by
4 the United States or a State, if such bank or other in-
5 stitution is a fiduciary of such Fund and if such invest-
6 ment is expressly authorized by regulations of the
7 Board or by a fiduciary (other than such bank or insti-
8 tution or affiliate thereof) who is expressly empowered
9 by the Board to make such investment.

10 (3) The providing of any ancillary service by a
11 bank or similar financial institution supervised by the
12 United States or a State if such bank or other institu-
13 tion is a fiduciary of such Fund and if—

14 (A) such bank or similar financial institution
15 has adopted adequate internal safeguards which
16 assure that the providing of such ancillary service
17 is consistent with sound banking and financial
18 practice, as determined by Federal or State super-
19 visory authority, and

20 (B) the extent to which such ancillary service
21 is provided is subject to specific guidelines issued
22 by such bank or similar financial institution (as
23 determined by the Mayor after consultation with
24 Federal and State supervisory authority), and ad-
25 herence to such guidelines would reasonably pre-

1 clude such bank or similar financial institution
2 from providing such ancillary service (i) in an ex-
3 cessive or unreasonable manner, and (ii) in a
4 manner that would be inconsistent with the best
5 interests of participants and beneficiaries of the
6 retirement program.

7 Such ancillary services shall not be provided at more
8 than reasonable compensation.

9 (4) The exercise of a privilege to convert securi-
10 ties, to the extent provided in regulations of the Coun-
11 cil, but only if the Fund receives no less than adequate
12 consideration pursuant to such conversion.

13 (5) Any transaction between a Fund and a
14 common or collective trust fund or pooled investment
15 fund maintained by a party in interest which is a bank
16 or trust company supervised by a State or Federal
17 agency, or a pooled investment fund of an insurance
18 company qualified to do business in a State, if—

19 (A) the transaction is a sale or purchase of
20 an interest in the Fund;

21 (B) the bank, trust company, or insurance
22 company receives not more than reasonable com-
23 pensation; and

24 (C) such transaction is expressly permitted
25 by the Board, or by a fiduciary (other than the

1 bank, trust company, insurance company, or an
2 affiliate thereof) who has authority to manage and
3 control the assets of the Fund.

4 (g) Nothing in subsection (c) shall be construed to pro-
5 hibit any fiduciary from—

6 (1) receiving any benefit to which he may be enti-
7 tled as a participant or beneficiary in the retirement
8 program, so long as the benefit is computed and paid
9 on a basis which is consistent with the terms of the
10 retirement program as applied to all other participants
11 and beneficiaries;

12 (2) receiving any reasonable compensation for
13 services rendered, or for the reimbursement of ex-
14 penses properly and actually incurred, in the perform-
15 ance of his duties with respect to the Fund; or

16 (3) serving as a fiduciary in addition to being an
17 officer, employee, agent, or other representative of a
18 party in interest.

19 LIABILITY FOR BREACH OF FIDUCIARY DUTY

20 SEC. 182. (a) Any person who is a fiduciary with re-
21 spect to a Fund who breaches any of the responsibilities, obli-
22 gations, or duties imposed upon fiduciaries by this title shall
23 be personally liable to make good to such Fund any losses to
24 the Fund resulting from each such breach and to restore to
25 such Fund any profits of such fiduciary which have been

1 made through the use of assets of the Fund by the fiduciary
 2 and shall be subject to such other equitable or remedial relief
 3 as the court may deem appropriate, including removal of such
 4 fiduciary.

5 (b) No fiduciary shall be liable with respect to a breach
 6 of fiduciary duty under this title if such breach was commit-
 7 ted before he became a fiduciary or after he ceased to be a
 8 fiduciary.

9 EXCULPATORY PROVISIONS; INSURANCE

10 SEC. 183. (a) Any provision in an agreement or instru-
 11 ment which purports to relieve a fiduciary from responsibility
 12 or liability for any responsibility, obligation, or duty under
 13 this part shall be void as against public policy.

14 (b) Nothing in this subpart shall preclude—

15 (1) the Board from purchasing insurance for its fi-
 16 duciaries or for itself to cover liability or losses occur-
 17 ring by reason of the act or omission of a fiduciary, if
 18 such insurance permits recourse by the insurer against
 19 the fiduciary in the case of a breach of a fiduciary obli-
 20 gation by such fiduciary;

21 (2) a fiduciary from purchasing insurance to cover
 22 liability under this part from and for his own account;
 23 or

24 (3) an employee organization from purchasing in-
 25 surance to cover potential liability of one or more per-

1 sons who serve in a fiduciary capacity with regard to,
2 the Fund from which the annuities and other retire-
3 ment and disability benefits of the members of such
4 employee organization are paid.

5 PROHIBITION AGAINST CERTAIN PERSONS HOLDING

6 CERTAIN POSITIONS

7 SEC. 184. (a) No person who has been convicted of, or
8 has been imprisoned as a result of his conviction of, robbery,
9 bribery, extortion, embezzlement, fraud, grand larceny, bur-
10 glary, arson, a felony violation of Federal or State law in-
11 volving substances defined in section 102(6) of the Compre-
12 hensive Drug Abuse Prevention and Control Act of 1970,
13 murder, rape, kidnapping, perjury, assault with intent to kill,
14 any crime described in section 9(a)(1) of the Investment
15 Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of
16 any provision of this Act, a violation of section 302 of the
17 Labor-Management Relations Act, 1947 (29 U.S.C. 186), a
18 violation of chapter 63 of title 18, United States Code, a
19 violation of section 874, 1027, 1503, 1505, 1506, 1510,
20 1951, or 1954 of title 18, United States Code, a violation of
21 the Labor-Management Reporting and Disclosure Act of
22 1959 (29 U.S.C. 401), or conspiracy to commit any such
23 crime or attempt to commit any such crime, or a crime in
24 which any of the foregoing crimes is an element, shall serve
25 or be permitted to serve—

1 (1) as a fiduciary, investment counsel, agent, or
2 employee of any Fund established by this title; or
3 (2) as a consultant to any Fund established by
4 this title;
5 during or for five years after such conviction or after the end
6 of such imprisonment, whichever is the later, unless prior to
7 the end of such five-year period, in the case of a person so
8 convicted or imprisoned, his citizenship rights, having been
9 revoked as a result of such conviction, have been fully re-
10 stored, or the Board of Parole of the United States Depart-
11 ment of Justice determines that such person's service in any
12 capacity referred to in paragraph (1) or (2) would not be con-
13 trary to the purposes of this title. Prior to making any such
14 determination the Board of Parole shall hold an administra-
15 tive hearing and shall give notice of such proceeding by certi-
16 fied mail to the State, county, and Federal prosecuting offi-
17 cials in the jurisdiction or jurisdictions in which such person
18 was convicted. The Board of Parole's determination in any
19 such proceeding shall be final. No person shall knowingly
20 permit any other person to serve in any capacity referred to
21 in paragraph (1) or (2) in violation of this subsection. Not-
22 withstanding the preceding provisions of this subsection, no
23 corporation or partnership will be precluded from acting as
24 an administrator, fiduciary, officer, trustee, custodian, coun-
25 sel, agent, or employee, of any Fund established by this title,

1 or as a consultant to any Fund established by this title, with-
2 out a notice, hearing, and determination by such Board of
3 Parole that such service would be inconsistent with the inten-
4 tion of this section.

5 (b) Whoever willfully violates this section shall be fined
6 not more than \$10,000 or imprisoned for not more than one
7 year, or both.

8 (c) For the purposes of this section:

9 (1) A person shall be deemed to have been "con-
10 victed" and to be under the disability of "conviction"
11 from the date of entry of the judgment of the trial
12 court or the date of the final sustaining of such judg-
13 ment on appeal, whichever is the later event.

14 (2) The term "consultant" means any person
15 who, for compensation, advises or represents a Fund or
16 who provides other assistance to such Fund concerning
17 the operation of such Fund.

18 (3) A period of parole shall not be considered as
19 part of a period of imprisonment.

20 BONDING

21 SEC. 185. (a)(1) Each fiduciary of a Fund established by
22 this title and each person who handles funds or other proper-
23 ty of such a Fund (hereinafter in this section referred to as
24 "Fund official") shall be bonded as provided in this section,
25 except that no bond shall be required of a fiduciary (or of any

1 director, officer, or employee of such fiduciary) if such fidu-
2 ciary—

3 (A) is a corporation organized and doing business
4 under the laws of the United States or of any State;

5 (B) is authorized under such laws to exercise trust
6 powers or to conduct an insurance business;

7 (C) is subject to supervision or examination by
8 Federal or State authority; and

9 (D) has at all times a combined capital and sur-
10 plus in excess of such a minimum amount as may be
11 established by regulations issued by the Council, which
12 amount shall be at least \$1,000,000.

13 Subparagraph (D) shall apply to a bank or other financial
14 institution which is authorized to exercise trust powers and
15 the deposits of which are not insured by the Federal Deposit
16 Insurance Corporation only if such bank or institution meets
17 bonding or similar requirements under State law which the
18 Council determines are at least equivalent to those imposed
19 on banks by Federal law.

20 (2)(A) The amount of such bond shall be the lesser of 10
21 percent of the amount of the funds handled by such fiduciary
22 and \$500,000, except that the amount of such bond shall be
23 at least \$1,000.

1 (B) The Mayor, after notice and opportunity for hearing
2 to such fiduciary and all other parties in interest to such
3 Fund, may waive the \$500,000 limit.

4 (C) The amount of such bond shall be set at the begin-
5 ning of each fiscal year.

6 (3) For purposes of fixing the amount of such bond, the
7 amount of funds handled shall be determined by the funds
8 handled by the person, group, or class to be covered by such
9 bond and by the predecessor or predecessors, if any, during
10 the preceding reporting year, or if the Fund has no preceding
11 reporting year under this title, the amount of funds to be
12 handled during the current reporting year by such person,
13 group, or class, estimated as provided in regulations to be
14 prescribed by the Council.

15 (4) Such bond shall provide protection to the Fund
16 against loss by reason of acts of fraud or dishonesty on the
17 part of the Fund official, directly or through connivance with
18 others.

19 (5) Any bond shall have as surety thereon a corporate
20 surety company which is an acceptable surety on Federal
21 bonds under authority granted by the Secretary of the Treas-
22 ury pursuant to sections 6 through 13 of title 6, United
23 States Code. Any bond shall be in a form or of a type ap-
24 proved by the Council, including individual bonds or schedule
25 or blanket forms of bonds which cover a group or class.

1 (b) It shall be unlawful for any Fund official to receive,
2 handle, disburse, or otherwise exercise custody or control of
3 any of the funds or other property of any Fund without being
4 bonded as required by subsection (a), and it shall be unlawful
5 for any Fund official or any other person having authority to
6 direct the performance of such functions to permit such func-
7 tions, or any of them, to be performed by any Fund official
8 with respect to whom the requirements of subsection (a) have
9 not been met.

10 (c) It shall be unlawful for any person to procure any
11 bond required by subsection (a) from any surety or other com-
12 pany or through any agent or broker in whose business oper-
13 ations the Fund or any party in interest in the Fund has any
14 control or significant financial interest, direct or indirect.

15 (d) Nothing in any other provision of law shall require
16 any person required to be bonded as provided in subsection
17 (a) because he handles funds or other property of a Fund to
18 be bonded insofar as the handling by such person of the funds
19 or other property of such Fund is concerned.

20 (e) The Council shall prescribe such regulations as may
21 be necessary to carry out the provisions of this section.

22 LIMITATION ON ACTIONS

23 SEC. 186. (a) No action may be commenced under this
24 title with respect to a fiduciary's breach of any responsibility,

1 duty, or obligation under this part, or with respect to a viola-
2 tion of this part, after the earlier of—

3 (1) six years after (A) the date of the last action
4 which constituted a part of the breach or violation, or
5 (B) in the case of an omission, the latest date on which
6 the fiduciary could have cured the breach or violation;
7 or

8 (2) three years after the earliest date (A) on
9 which the plaintiff had actual knowledge of the breach
10 or violation, or (B) on which a report from which he
11 could reasonably be expected to have obtained knowl-
12 edge of such breach or violation was filed with the
13 Mayor, the Council, the Speaker, or the President pro
14 tempore under this title;
15 except that in the case of fraud or concealment, such an
16 action may be commenced not later than six years after the
17 date of discovery of such breach or violation.

18 CIVIL ENFORCEMENT

19 SEC. 187. (a) A civil action may be brought—

20 (1) by a participant or beneficiary—

21 (A) for the relief provided for in subsection

22 (b) of this section, or

23 (B) to recover benefits due to him under the
24 terms of his retirement program, to enforce his
25 rights under the terms of the retirement program,

1 or to clarify his rights to future benefits under the
2 terms of the retirement program;

3 (2) by a participant or beneficiary or the District
4 of Columbia for appropriate relief under section 182; or

5 (3) by a participant or beneficiary or the District
6 of Columbia (A) to enjoin any act or practice which
7 violates any provision of this title or the terms of a re-
8 tirement program, or (B) to obtain other appropriate
9 equitable relief (i) to redress any such violation, or (ii)
10 to enforce any provision of this title or the terms of a
11 retirement program.

12 (b) If the Board fails or refuses to comply with a request
13 for any information which the Board is required by this title
14 to furnish to a participant or beneficiary (unless such failure
15 or refusal results from matters reasonably beyond the control
16 of the Board) by mailing the information requested to the last
17 known address of the requesting participant or beneficiary
18 within thirty days after such request, then the Board may, in
19 the court's discretion, be liable to such participant or benefi-
20 ciary in an amount of up to \$100 a day from the date of such
21 failure or refusal, and the court may order the Board to pro-
22 vide the required information and may in its discretion order
23 such other relief as it considers proper.

24 (c) The Board may sue and be sued under this title as an
25 entity. Service of summons, subpoena, or other legal process

1 of a court upon the chairman of the Board in his capacity as
2 such shall constitute service upon the Board.

3 (d) In any action under this title by a participant, benefi-
4 ciary, or fiduciary, the court in its discretion may allow a
5 reasonable attorney's fee and costs of action to either party.

6 CLAIMS PROCEDURE

7 SEC. 188. In accordance with regulations of the Coun-
8 cil, the Mayor shall provide to any participant or beneficiary
9 who has a claim for benefits under a retirement program
10 denied—

11 (1) adequate written notice of such denial, setting
12 forth the specific reasons for such denial in a manner
13 calculated to be understood by such participant or ben-
14 eficiary; and

15 (2) a reasonable opportunity for a full and fair
16 review of the decision denying such claim.

17 TITLE II—CHANGES IN RETIREMENT BENEFITS

18 PART A—POLICE OFFICERS AND FIRE FIGHTERS'

19 RETIREMENT BENEFITS

20 SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

21 SEC. 201. Paragraph (17) of subsection (a) of the Po-
22 licemen and Firemen's Retirement and Disability Act (D.C.
23 Code, sec. 4-521(17)) is amended—

24 (1) by striking out "twelve consecutive months of
25 police or fire service," and inserting in lieu thereof

1 "thirty-six consecutive months of police or fire service
2 in the case of a member who is an officer or member of
3 the Metropolitan Police force or the Fire Department
4 of the District of Columbia and who first becomes such
5 a member after the end of the ninety-day period begin-
6 ning on the date of the enactment of the District of
7 Columbia Retirement Reform Act, or over any twelve
8 consecutive months of police or fire service in the case
9 of any other member,"; and

10 (2) by inserting "or thirty-six consecutive months,
11 as the case may be," immediately after "twelve con-
12 secutive months" the second place it appears.

13 CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF
14 EMPLOYEE ORGANIZATIONS

15 SEC. 202. (a) Subsection (c) of the Policemen and Fire-
16 men's Retirement and Disability Act (D.C. Code, sec.
17 4-523) is amended by redesignating paragraphs (6) and (7) of
18 such subsection as paragraphs (7) and (8), respectively, and
19 by inserting after paragraph (5) the following new paragraph:

20 (6)(A) Any period of time during which a member who
21 is an officer or member of the Metropolitan Police force or
22 the Fire Department of the District of Columbia is on ap-
23 proved leave without pay to serve as a full-time officer or
24 employee of a labor organization shall be considered to be
25 police or fire service for purposes of this section if such

1 member files an election in accordance with subparagraph (B)
2 and makes payments as described in subparagraph (C). The
3 basic salary in effect at any time for the grade in which a
4 member was serving at the time he entered on approved
5 leave described in the preceding sentence shall be considered
6 to be the basic salary in effect for such member for purposes
7 of this section if the period of time when such member is on
8 approved leave is considered to be police or fire service under
9 this paragraph.

10 “(B) To be eligible to have any period of approved leave
11 described in subparagraph (A) considered to be police or fire
12 service for purposes of this section, a member described in
13 such subparagraph must, not later than the end of the sixty-
14 day period commencing on the day such member enters on
15 such approved leave or the effective date of this paragraph,
16 whichever occurs later, file an election with the Mayor to
17 have such period of approved leave considered to be police or
18 fire service for purposes of this section.

19 “(C)(i) To have any period of approved leave described
20 in subparagraph (A) occurring after the effective date of this
21 section considered to be police or fire service, a member de-
22 scribed in such subparagraph must each month deposit with
23 the Custodian of Retirement Funds (as defined in section
24 102(c) of the District of Columbia Retirement Reform Act)
25 for deposit in the District of Columbia Police Officers and

1 Fire Fighters' Retirement Fund established by section 122(a)
2 of such Act a sum equal to one-twelfth the annual new-en-
3 trant normal cost of the annuity of a member receiving the
4 basic salary in effect during such month for the grade in
5 which such member was serving at the time such member
6 entered on such leave.

7 “(ii) To have any period of approved leave described in
8 subparagraph (A) which occurred before the effective date of
9 this section considered to be police or fire service, a member
10 described in such subparagraph must deposit with the Custo-
11 dian of Retirement Funds (as defined in section 102(c) of the
12 District of Columbia Retirement Reform Act) for deposit in
13 the District of Columbia Police Officers and Fire Fighters'
14 Retirement Fund established by section 122(a) of such Act,
15 in a manner to be determined by the Mayor, a sum equal to
16 the new-entrant normal cost of the annuity of a member re-
17 ceiving the basic salary in effect during the period of such
18 leave for the grade in which such member was serving at the
19 time such member entered on such leave.

20 “(iii) The Mayor shall make an annual determination of
21 the new-entrant normal cost for purposes of clauses (i) and
22 (ii) according to information supplied by the actuary retained
23 pursuant to section 142 of the District of Columbia Retire-
24 ment Reform Act.

1 “(D) For purposes of this paragraph, the term ‘em-
 2 ployee organization’ means any organization of any kind, or
 3 any agency or employer representation committee or plan, in
 4 which members or officers of the Metropolitan Police force or
 5 the Fire Department of the District of Columbia participate
 6 and which exists for the purpose, in whole or in part, of deal-
 7 ing with the government of the District of Columbia concern-
 8 ing grievances, labor disputes, wages, rates of pay, hours of
 9 employment, or conditions of work.”.

10 (b) The amendment made by subsection (a) shall take
 11 effect at the end of the ninety-day period beginning on the
 12 date of the enactment of this Act.

13 REQUIREMENTS FOR OPTIONAL RETIREMENT

14 SEC. 203. (a) Subsection (h)(1) of the Policemen and
 15 Firemen’s Retirement and Disability Act (D.C. Code, sec.
 16 4-528(1)) is amended—

17 (1) by striking out “who completes twenty years
 18 of police or fire service” and inserting in lieu thereof
 19 “who is an officer or member of the Metropolitan
 20 Police force or the Fire Department of the District of
 21 Columbia and first becomes such a member after the
 22 end of the ninety-day period beginning on the date of
 23 the enactment of the District of Columbia Retirement
 24 Reform Act and who completes twenty-five years of
 25 police or fire service and attains the age of fifty years

1 and any other member (other than a member who is an
 2 officer or member of the Metropolitan Police force or
 3 the Fire Department of the District of Columbia who
 4 first becomes such a member after the end of such
 5 ninety-day period) who completes twenty years of
 6 police or fire service.”; and

7 (2) by striking out “twenty years: *Provided*” and
 8 inserting in lieu thereof “(A) twenty-five years, in the
 9 case of a member who becomes a member after the
 10 end of such ninety-day period, or (B) twenty years, in
 11 the case of any other member: *Provided*”.

12 (b)(1) Paragraph (2) of subsection (h) of the Policemen
 13 and Firemen’s Retirement and Disability Act (D.C. Code,
 14 sec. 4-528) is amended by striking out “in subsection (h)”
 15 and inserting in lieu thereof “under”.

16 (2) Paragraph (3) of such subsection is amended by
 17 striking out “of this subsection (h)”.

18 **DISABILITY RETIREMENT**

19 **SEC. 204.** (a) Subsection (g) of the Policemen and Fire-
 20 men’s Retirement and Disability Act (D.C. Code, sec.
 21 4-527) is amended—

22 (1) in paragraph (2), by striking out “In any case
 23 in which the proximate cause of an injury incurred or
 24 disease contracted by a member” and inserting in lieu
 25 thereof “In any case involving a member who is an of-

1 ficer or member of the United States Park Police force,
2 the Executive Protective Service, or the United States
3 Secret Service Division, in which the proximate cause
4 of an injury incurred or disease contracted by the
5 member"; and

6 (2) by adding at the end thereof the following new
7 paragraph:

8 “(4) A member who is an officer or member of the Met-
9 ropolitan Police force or the Fire Department of the District
10 of Columbia may not retire and receive an annuity under this
11 subsection on the basis of the aggravation in the performance
12 of duty of an injury incurred or a disease contracted in the
13 performance of duty unless—

14 “(A) in the case of the aggravation of a disease,
15 the disease was reported to the Board of Police and
16 Fire Surgeons within thirty days after the disease was
17 first diagnosed; or

18 “(B) in the case of the aggravation of an injury,
19 the injury was reported to the Board of Police and
20 Fire Surgeons within seven days after the injury was
21 incurred or, if the member was unable (as determined
22 by such Board) as a result of the injury to report the
23 injury within such seven-day period, within seven days
24 after the member became able (as determined by such
25 Board) to report the injury.

1 The burden of establishing inability to report an injury in
2 accordance with subparagraph (B) within seven days after
3 such injury was incurred and of establishing that such injury
4 was reported within seven days after the end of such inability
5 shall be on the member claiming such inability. Any report
6 under this paragraph shall include adequate medical docu-
7 mentation. Nothing in this paragraph shall be deemed to alter
8 or affect any administrative regulation or requirement of the
9 Metropolitan Police force or the Fire Department of the Dis-
10 trict of Columbia with respect to the reporting of an injury
11 incurred or aggravated, or any disease contracted or aggra-
12 vated, in the performance of duty.”.

13 (b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526)
14 is amended—

15 (A) by striking out “Whenever” and inserting in
16 lieu thereof “(1) Except as provided in paragraph (2),
17 whenever”; and

18 (B) by adding at the end thereof the following
19 new paragraph.

20 “(2) Whenever any member who is an officer or member
21 of the Metropolitan Police force or the Fire Department of
22 the District of Columbia and who first becomes such a
23 member after the end of the ninety-day period beginning on
24 the date of the enactment of the District of Columbia Retire-
25 ment Reform Act completes five years of police or fire serv-

1 ice and is found by the Mayor to have become disabled due to
2 injury received or disease contracted other than in the per-
3 formance of duty, which disability precludes further service
4 with his department, such member shall be retired on an an-
5 nuity which shall be 70 per centum of his basic salary at the
6 time of retirement multiplied by the percentage of disability
7 for such member as determined in accordance with subsection
8 (g)(5)(B)(ii) of this section, except that such annuity shall not
9 be less than 30 per centum of his basic salary at the time of
10 retirement.”.

11 (2) Subsection (g) of such Act, as amended by subsection
12 (a) of this section, is further amended—

13 (A) in paragraph (1), by striking out “Whenever”
14 and inserting in lieu thereof “Except as provided in
15 paragraph (5), whenever”; and

16 (B) by adding at the end thereof the following
17 new paragraph:

18 “(5)(A) Whenever any member who is an officer or
19 member of the Metropolitan Police force or the Fire Depart-
20 ment of the District of Columbia and who first becomes such
21 a member after the end of the ninety-day period beginning on
22 the date of the enactment of the District of Columbia Retire-
23 ment Reform Act is injured or contracts a disease in the per-
24 formance of duty or such injury or disease is aggravated by
25 such duty at any time after appointment and such injury or

1 disease or aggravation permanently disables him for the per-
2 formance of duty, he shall upon retirement for such disability,
3 receive an annuity computed in accordance with subpara-
4 graph (B).

5 “(B)(i) In the case of any member who retires under this
6 paragraph or paragraph (2) of subsection (f), the Board of
7 Police and Fire Surgeons shall determine, within a reason-
8 able time and in accordance with regulations which the
9 Mayor shall promulgate, the percentage of impairment for
10 such member and shall report such percentage of impairment
11 to the Police and Firemen’s Retirement and Relief Board.

12 “(ii) In the case of any member described in clause (i),
13 the Police and Firemen’s Retirement and Relief Board shall
14 determine within a reasonable time the percentage of disabil-
15 ity for such member giving due regard to—

16 “(I) the nature of the injury or disease,

17 “(II) the percentage of impairment reported pur-
18 suant to clause (i),

19 “(III) the position in the Metropolitan Police force
20 or the Fire Department of the District of Columbia
21 held by the member immediately prior to his retire-
22 ment.

23 “(IV) the age and years of service of the member,
24 and

1 “(V) any other factors or circumstances which
2 may affect the capacity of the member to earn wages
3 or engage in gainful activity in his disabled condition,
4 including the effect of the disability as it may naturally
5 extend into the future.

6 “(iii) The percentage of impairment or the percentage of
7 disability for a member to whom this paragraph applies may
8 be redetermined at any time prior to the time such member
9 reaches the age of fifty and his annuity shall be adjusted
10 accordingly.

11 “(iv) The annuity of a member who is retired under this
12 paragraph shall be 70 per centum of his basic salary at the
13 time of retirement multiplied by the percentage of disability
14 for such member as determined in accordance with clause (ii),
15 except that such annuity shall not be less than 40 per centum
16 of his basic salary at the time of retirement.

17 “(v) For purposes of this paragraph—

18 “(I) the term ‘impairment’ means any anatomic or
19 functional abnormality or loss existing after maximal
20 medical rehabilitation has been achieved; and

21 “(II) the term ‘disability’ means any actual or
22 presumed reduction in or absence of ability to engage
23 in gainful activity which is caused, in whole or in part,
24 by an impairment.”

1 (c) The amendment made by paragraph (1) of subsection
2 (a) shall not apply with respect to officers and members of the
3 Metropolitan Police force or the Fire Department of the Dis-
4 trict of Columbia who apply for disability retirement under
5 subsection (g) of the Policemen and Firemen's Retirement
6 and Disability Act prior to the end of the ninety-day period
7 beginning on the date of the enactment of this Act. The
8 amendment made by paragraph (2) of subsection (a) shall not
9 apply with respect to injuries incurred or diseases first diag-
10 nosed prior to the end of such ninety-day period.

11 RECOVERY FROM DISABILITY

12 SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and
13 Firemen's Retirement and Disability Act (D.C. Code, sec.
14 4-530(1)) is amended in the first sentence by striking out
15 "shall cease" and all that follows in such sentence and in-
16 serting in lieu thereof "shall cease—

17 "(A) upon reemployment in the department from
18 which he was retired,

19 "(B) one year from the date of the medical exami-
20 nation showing such recovery,

21 "(C) one year from the date of the determination
22 that he is so restored, or

23 "(D) in the case of an annuitant who was an offi-
24 cer or member of the Metropolitan Police force or the
25 Fire Department of the District of Columbia and who

1 first became such a member after the end of the
2 ninety-day period beginning on the date of the enact-
3 ment of the District of Columbia Retirement Reform
4 Act, upon a refusal by such annuitant to accept an
5 offer of reemployment in the department from which he
6 was retired at the same grade or rank as he held at
7 the time of his retirement,
8 whichever is earliest.”.

9 (2)(A) Such subsection (j)(1) is amended in the second
10 sentence by striking out “in each of two succeeding calendar
11 years” and inserting in lieu thereof “, in each of two succeed-
12 ing calendar years in the case of an annuitant who was an
13 officer or member of the United States Park Police force,
14 Executive Protection Service, or the United States Secret
15 Service Division, or in any calendar year in the case of an
16 annuitant who was an officer or member of the Metropolitan
17 Police force or the Fire Department of the District of Colum-
18 bia,”.

19 “(B) Subsection (j) of such Act is further amended by
20 adding at the end thereof the following new paragraph:

21 “(3)(A) If any annuitant who is retired under subsection
22 (f) or (g), who prior to such retirement was an officer or
23 member of the Metropolitan Police force or the Fire Depart-
24 ment of the District of Columbia, and who first became such
25 a member after the end of the ninety-day period beginning on

1 the date of the enactment of the District of Columbia Retire-
2 ment Reform Act, receives, directly or indirectly, income
3 from wages or self-employment, or both, in any calendar year
4 after the calendar year in which he retired—

5 “(i) in an amount in excess of the difference be-
6 tween 70 per centum of the current earnings limitation
7 and the amount of annuity payable to such annuitant
8 during such year under each such subsection prior to
9 the reductions provided for in this paragraph, then
10 (except as provided in subparagraph (D)) the annuity of
11 such annuitant shall be reduced by 50 cents for each
12 \$1.00 of such income received during such year in
13 excess of such difference; and

14 “(ii) in an amount in excess of the difference be-
15 tween the current earnings limitation and the amount
16 of annuity payable to such annuitant during such year
17 under each such subsection prior to the reductions pro-
18 vided for in this paragraph, then (except as provided in
19 subparagraph (D)) the annuity of such annuitant shall
20 be further reduced by 20 cents for each \$1.00 of such
21 income received during such year in excess of such
22 difference.

23 “(B) For the purposes of subparagraph (A), the term
24 ‘current earnings limitation’, with respect to an annuitant,
25 means the greater of—

1 “(i) the current annual salary for the position
2 which such annuitant held immediately prior to the re-
3 irement of such annuitant; or

4 “(ii) the current entry level salary for active offi-
5 cers and members, divided by .7.

6 “(C) The reductions provided for in subparagraph (A)
7 shall be made as follows:

8 “(i) Such reductions shall be pro rated over a
9 period of twelve consecutive months, with equal
10 amounts withheld from each payment of annuity during
11 such twelve-month period.

12 “(ii) The twelve-month period during which such
13 reduction is made shall begin as soon after the end of
14 the calendar year involved as is administratively prac-
15 ticable (as determined in accordance with regulations
16 which the Mayor of the District of Columbia shall
17 promulgate).

18 “(D) If the Mayor of the District of Columbia deter-
19 mines that the level of income of an annuitant whose annuity
20 would otherwise be reduced in accordance with subparagraph
21 (A) has decreased significantly (other than in accordance with
22 normal income fluctuations for such annuitant) during the
23 period in which such reduction would occur, the Mayor may
24 authorize the withholding during such period, or any portion
25 thereof, of such lesser amount than the amount prescribed in

1 such subparagraph as the Mayor considers appropriate or the
2 Mayor may waive the requirements of subparagraph (A) if he
3 finds that circumstances justify such waiver.

4 (E)(i) Any annuitant who is retired under subsection (f)
5 or (g) and who prior to such retirement was an officer or
6 member of the Metropolitan Police force or the Fire Depart-
7 ment of the District of Columbia shall, at such times as the
8 Mayor of the District of Columbia shall by regulation pre-
9 scribe, submit to the Mayor a notarized statement containing
10 such information as the Mayor shall by regulation require
11 with respect to the income received by such annuitant from
12 wages or self-employment, or both. After examining such
13 statement, the Mayor may require such annuitant to submit
14 to the Mayor a further notarized statement containing such
15 additional information with respect to the income received by
16 such annuitant from wages or self-employment, or both, as
17 the Mayor deems appropriate.

18 "(ii) Any annuitant described in clause (i) who willfully
19 furnishes materially false information with respect to his
20 income in any statement required to be submitted under such
21 clause shall forfeit all rights to his disability annuity. Any
22 such annuitant who refuses or otherwise willfully fails to
23 timely submit such statement as required by this subsection,
24 payment of the annuity to such annuitant shall cease and
25 such annuitant shall not be eligible to receive such annuity or

1 part thereof for the period beginning on the date after the
2 final day for timely filing of such statement and ending on the
3 date on which the Mayor receives such statement. Nothing in
4 this clause shall affect any rights to a survivor's annuity
5 under subsection (k) based upon the service of such annu-
6 itant."

7 (b) Subsection (m)(2) of such Act (D.C. Code, sec.
8 4-533(2)) is amended—

9 (1) by inserting "(A)" before "If a member";

10 (2) by striking out the last sentence of such sub-
11 section and adding after "is based." the following:
12 "The Commissioner shall not require employment
13 questionnaires under subsection (j)(3)(C) or the medical
14 examination of such member under subparagraph (B)
15 after such member reaches the age of fifty."; and

16 (3) by adding at the end of such subsection the
17 following new subparagraph:

18 "(B) The Mayor shall, by regulation, require any annu-
19 itant who was an officer or member of the Metropolitan
20 Police force or the Fire Department of the District of Colum-
21 bia and who retired before, on, or after the date of the enact-
22 ment of the District of Columbia Retirement Reform Act
23 under subsection (f) or (g) of this section to undergo, during
24 each twelve-month period following the effective date of this
25 subparagraph, at least one medical examination of the dis-

1 ability upon which the annuitant's retirement under subsec-
2 tion (f) or (g) is based. No such annuitant shall be required
3 under such regulations to undergo a medical examination
4 during any such twelve-month period during which the annu-
5 itant was required to undergo a medical examination under
6 this subsection in connection with such annuitant's employ-
7 ment. Such annual examination shall be carried out by the
8 Board of Police and Fire Surgeons or by a physician desig-
9 nated by the Board.

10 “(2) Such regulations shall further provide for notifica-
11 tion by the Board of Police and Fire Surgeons to each such
12 annuitant as to the time and place for such examination and
13 the consequences of failure to appear and submit to such
14 examination.

15 “(3) In any case in which the requirement to undergo a
16 medical examination under this section would impose on an
17 annuitant an undue hardship because of the physical or
18 mental condition of such annuitant, the Mayor, by regulation,
19 shall provide other means sufficient to determine the continu-
20 ance of the disability on which such annuitant's retirement
21 under subsection (f) or (g) is based.

22 “(4) Such regulations shall further provide that, in any
23 case involving any such member so retired who refuses or
24 otherwise fails to undergo any medical exam required by this
25 section, payment of the annuity to such member shall cease

1 and such member shall not be eligible to receive such annuity
2 or any part thereof for any period commencing on the day
3 next following the day on which such member was required
4 to undergo such examination, and ending on the date on
5 which such member undergoes such examination. Nothing in
6 this paragraph shall be construed as affecting any rights to a
7 survivor's annuity under subsection (k) based upon the serv-
8 ice of such member."

9 (c) The amendments made by subsections (a) and (b)
10 shall take effect at the end of the ninety-day period beginning
11 on the date of enactment of this Act. The amendment made
12 by paragraph (2)(B) of subsection (a) shall apply with respect
13 to income from wages or self-employment, or both, received
14 directly or indirectly during calendar year 1978 or the calen-
15 dar year after the year in which the member retires, which-
16 ever is later, and any calendar year thereafter.

17 SURVIVORS' ANNUITIES

18 SEC. 206. (a)(1) Subsection (k) of the Policemen and
19 Firemen's Retirement and Disability Act (D.C. Code, sec.
20 4-531) is amended—

21 (A) in paragraph (2)—

22 (i) by inserting "(A)" immediately after "40
23 per centum" the second place it appears, and

24 (ii) by striking out "computed," and inserting
25 in lieu thereof "computed in the case of a member

1 who was an officer or member of the United
2 States Park Police force, the Executive Protec-
3 tive Service, or the United States Secret Service
4 Division, or (B) of the adjusted average pay of
5 such former member in the case of a member who
6 was an officer or member of the Metropolitan
7 Police force or the Fire Department of the Dis-
8 trict of Columbia;"; and

9 (B) by amending paragraph (3) to read as follows:

10 “(3) Each surviving child or student-child of any
11 member who dies before retirement, or of any former member
12 who dies after retirement, shall be entitled to receive an an-
13 nuity equal to the smallest of—

14 “(A) in the case of a member or former member
15 who is survived by a wife or husband—

16 “(i) 60 per centum of—

17 “(I) the member's average pay at the
18 time of death, or

19 “(II) the basis upon which the former
20 member's annuity at the time of death was
21 computed in the case of a member who was
22 an officer or member of the United States
23 Park Police force, the Executive Protective
24 Service, or the United States Secret Service
25 Division, or the adjusted average pay of the

1 former member in the case of a member who
2 was an officer or member of the Metropolitan
3 Police force or the Fire Department of the
4 District of Columbia,
5 divided by the number of eligible children;
6 “(ii) \$1,548; or
7 “(iii) \$4,644 divided by the number of eligi-
8 ble children; and
9 “(B) in the case of a member or former member
10 who is not survived by a wife or husband—
11 “(i) 75 per centum of—
12 “(I) the member’s average pay at the
13 time of death, or
14 “(II) the basis upon which the former
15 member’s annuity at the time of death was
16 computed in the case of a member who was
17 an officer or member of the United States
18 Park Police force, the Executive Protective
19 Service, or the United States Secret Service
20 Division, or the adjusted average pay of the
21 former member in the case of a member who
22 was an officer or member of the Metropolitan
23 Police force or the Fire Department of the
24 District of Columbia,
25 divided by the number of eligible children;

1 “(ii) \$1,860; or

2 “(iii) \$5,580 divided by the number of eligi-
3 ble children.”.

4 (2) Subsection (a) of such Act (D.C. Code, sec. 4-521)
5 is amended—

6 (A) by striking out the period at the end of para-
7 graph (4) of such subsection and inserting in lieu there-
8 of the following: “, in the case of a member who was
9 an officer or member of the United States Park Police
10 force, the Executive Protective Service, or the United
11 States Secret Service Division, or the surviving hus-
12 band of a member or former member who was a
13 member or officer of the Metropolitan Police force or
14 the Fire Department of the District of Columbia if—

15 “(A) he was married to such member or
16 former member (i) while she was a member, or (ii)
17 for at least one year immediately preceding her
18 death, or

19 “(B) he is the father of issue by such mar-
20 riage.”; and

21 (B) by inserting the following new paragraph im-
22 mediately after paragraph (17):

23 “(18) The term ‘adjusted average pay’ means the aver-
24 age pay of a member who was an officer or member of the
25 Metropolitan Police force or the Fire Department of the Dis-

1 trict of Columbia increased by the per centum increase (ad-
 2 justed to the nearest one-tenth of 1 per centum in the Con-
 3 sumer Price Index for All Urban Consumers, published by
 4 the Bureau of Labor Statistics, between the month in which
 5 such member retires and the month immediately prior to the
 6 month in which such member dies.”.

7 (b) The amendments made by subsection (a) shall apply
 8 with respect to survivor annuities under the Policemen and
 9 Firemen’s Retirement and Disability Act for survivors of offi-
 10 cers or members of the Metropolitan Police force or the Fire
 11 Department of the District of Columbia which commence on
 12 or after the first day of the first month which begins after the
 13 end of the ninety-day period beginning on the date of enact-
 14 ment of this Act.

15 DEFERRED ANNUITIES

16 SEC. 207. (a)(1) The Policemen and Firemen’s Retire-
 17 ment and Disability Act is amended—

18 (A) by redesignating subsections (l) through (r) as
 19 subsections (m) through (s), respectively; and

20 (B) by inserting immediately after subsection (k)
 21 the following new subsection:

22 “DEFERRED ANNUITIES

23 “(l)(1) Except as provided in paragraph (2), any member
 24 who is an officer or member of the Metropolitan Police force
 25 or the Fire Department of the District of Columbia who com-

1 pletes five years of police or fire service and who is thereafter
2 separated from his department, except for retirement under
3 subsection (f), (g), or (h), shall be entitled to an annuity com-
4 mencing on the first day of the month during which such
5 member attains the age of fifty-five or on the first day of the
6 first month beginning after such member's separation from
7 his department, whichever month occurs later. Such annuity
8 shall be computed at the rate of $2\frac{1}{2}$ per centum of his aver-
9 age pay for each year of service up to twenty years of service
10 and at the rate of 3 per centum of his average pay for each
11 year of service after twenty years of service, or, in the case
12 of a member who first became such a member after the end of
13 the ninety-day period beginning on the date of the enactment
14 of the District of Columbia Retirement Reform Act, after
15 twenty-five years of service, except that such annuity may
16 not exceed 80 per centum of the average pay of such
17 member.

18 “(2)(A) Any member who is an officer or member of the
19 Metropolitan Police force or the Fire Department of the Dis-
20 trict of Columbia who completes five years of police or fire
21 service and who is thereafter separated from his department
22 (other than a member who retires under subsection (f), (g), or
23 (h)) may elect, at the time of his separation, to receive a
24 refund of the amount of deductions made from his salary

1 under this section. Receipt of such refund by the member
2 shall void all annuity rights under this section.

3 “(B)(i) Any member who, by electing to receive a refund
4 under subparagraph (A), loses annuity rights under this sec-
5 tion, may reestablish all such rights at any time prior to at-
6 taining the age of fifty-five by redepositing the amount of
7 such refund plus interest computed in accordance with para-
8 graph (3).

9 “(ii) If any member who receives a refund under subpar-
10 agraph (A) is subsequently reappointed to any department
11 whose members come under this section and elects, at the
12 time of such reappointment, to redeposit the amount refunded
13 to him under subparagraph (A) plus interest computed in ac-
14 cordance with paragraph (3), then credit shall be allowed
15 under this section for such member's prior period of service.
16 Such redeposit (and the required interest thereon) may, at the
17 election of the member, be made in a lump sum or in not to
18 exceed 60 monthly installments, except that if the member
19 dies before depositing the full amount due under the preced-
20 ing sentence, the requirements of such sentence shall be
21 deemed to have been met.

22 “(3) The interest which is required by paragraphs (2)(B)
23 (i) and (ii) of this subsection and by paragraph (2)(B) of sub-
24 section (d) to be paid by a member who redeposits the

1 amount of previously refunded deductions shall be computed
2 as follows:

3 “(A) Interest shall be paid at a rate which (as de-
4 termined by the Mayor of the District of Columbia) is
5 equal to the average rate of return on investment (ad-
6 justed to the nearest one-eighth of 1 per centum) for
7 the District of Columbia Police Officers and Fire
8 Fighters’ Retirement Fund (established by section 122
9 of the District of Columbia Retirement Reform Act) for
10 the period beginning on the first day of the first month
11 which begins after the end of the service with respect
12 to which the redeposit is made and ending on the last
13 day of the month which precedes the month during
14 which he redeposits the refund if he makes a lump sum
15 payment or during which he makes the first monthly
16 payment if he makes monthly payments, except that
17 for so much of any such period which precedes October
18 1, 1980, the average rate of interest on interest-bear-
19 ing obligations of the United States forming a part of
20 the public debt (adjusted to the nearest one-eighth of 1
21 per centum) shall be used in determining the interest
22 rate to be paid on redeposits under this section.

23 “(B) Interest shall be payable for the period be-
24 ginning on the first day of the first month which begins
25 after the end of the period of service with respect to

1 which the redeposit is made and ending on the last day
2 of the month which precedes the month during which
3 he redeposits the refund.

4 “(C) If a member elects to make his redeposit in
5 monthly installments, each monthly payment shall in-
6 clude interest on that portion of the refund which is
7 then being redeposited.”.

8 (2) Subsection (k) of such Act (D.C. Code, 4-531), as
9 amended by section 206 of this Act, is further amended—

10 (A) in paragraph (2)—

11 (i) by striking out “or” the first place it ap-
12 pears, and

13 (ii) by inserting “or of any member entitled to
14 receive an annuity under subsection (l) (regardless
15 of whether such member is receiving such annuity
16 at the time of death),” immediately after “after
17 retirement,”;

18 (B) in paragraph (3)—

19 (i) by striking out “or” the second place it
20 appears, and

21 (ii) by inserting “or of any member entitled
22 to receive an annuity under subsection (l) (regard-
23 less of whether such member is receiving such an-
24 nuity at the time of death),” immediately after
25 “after retirement,”; and

1 (C) in paragraph (6)—

2 (i) by striking out “, may,” in the first sen-
3 tence and inserting in lieu thereof “may”,

4 (ii) by inserting “, and any member entitled
5 to receive an annuity under subsection (l) of this
6 section may at the time such annuity com-
7 mences,” immediately after “such retirement,” in
8 the first sentence,

9 (iii) by striking out “the retired annuitant” in
10 the first sentence and inserting in lieu thereof
11 “such member’s”,

12 (iv) by striking out “the retiring” in the pro-
13 viso in the first sentence and inserting in lieu
14 thereof “such”,

15 (v) by striking out “retiring” in the second
16 and fourth sentences,

17 (vi) by striking out “retirement” in the last
18 sentence and inserting in lieu thereof “election”,
19 and

20 (vii) by striking out “or (h)” in the last sen-
21 tence and inserting in lieu thereof “(h), or (l), as
22 the case may be”.

23 (b) The amendments made by subsection (a) shall take
24 effect at the end of the ninety-day period beginning on the
25 date of the enactment of this Act.

1 INTEREST OF REFUNDS AND ON DEPOSITS FOR PRIOR
2 SERVICE CREDIT

3 SEC. 208. (a)(1) Subsection (d) of the Policemen and
4 Firemen's Retirement and Disability Act (D.C. Code, sec.
5 4-524) is amended—

6 (A) in paragraph (2)—

7 (i) by striking out "Any member coming
8 under the provisions of this section" and inserting
9 in lieu thereof "(A) any member who is an officer
10 or member of the United States Park Police force,
11 the Executive Protective Service, or the United
12 States Secret Service Division,"; and

13 (ii) by adding at the end of such paragraph
14 the following new subparagraph,

15 "(B) Any member who is an officer or member of the
16 Metropolitan Police force or the Fire Department of the Dis-
17 trict of Columbia with less than five years of police or fire
18 service who is separated from his department, except for re-
19 tirement under subsection (f), (g), or (h), shall be refunded the
20 amount of the deductions made from his salary under this
21 section. The receipt of payment of such deductions by such
22 member shall void all annuity rights under this section,
23 except that if such member is subsequently reappointed to
24 any department whose members come under this section and
25 such member elects, at the time of such reappointment, to

1 redeposit the amount refunded to him pursuant to the preced-
 2 ing sentence plus interest computed in accordance with sub-
 3 section (1)(3), then credit shall be allowed under this section
 4 for the prior period of service. Such redeposit (and the inter-
 5 est required thereon) may be made, at the election of the
 6 member, in a lump sum or in not to exceed 60 monthly in-
 7 stallments, except that if such member dies before depositing
 8 the full amount due under the preceding sentence, the re-
 9 quirements of such sentence shall be deemed to have been
 10 met.”;

11 (B) in the proviso at the end of paragraph (3), by
 12 inserting immediately before the period “, except that
 13 if the member was an officer or member of the Metro-
 14 politan Police force or the Fire Department of the Dis-
 15 trict of Columbia, no payment shall be made if no nat-
 16 ural person is determined to be entitled thereto”; and

17 (C) in paragraph (4)—

18 (i) by striking out “after retirement”, and

19 (ii) in the proviso at the end of such para-
 20 graph by inserting “, except that if the member
 21 was an officer or member of the Metropolitan
 22 Police force or the Fire Department of the Dis-
 23 trict of Columbia, no payment shall be made if no
 24 natural person is determined to be entitled there-
 25 to” immediately before the period.

1 (2) Paragraph (5) of subsection (c) of such Act (D.C.
2 Code, sec. 4-523(5) is amended to read as follows:

3 “(5)(A) A member shall be allowed credit for govern-
4 ment service performed prior to appointment in any of the
5 departments mentioned in subsection (a)(1) of this section, if
6 such member deposits a sum equal to the entire amount, in-
7 cluding interest (if any), refunded to him for such period of
8 government service. A member who is an officer or member
9 of the Metropolitan Police force or the Fire Department of
10 the District of Columbia shall deposit such sum, plus interest
11 computed in accordance with subparagraph (B), with the
12 Custodian of Retirement Funds (as defined in section 102(6)
13 of the District of Columbia Retirement Reform Act) for de-
14 posit in the District of Columbia Police Officers and Fire
15 Fighters’ Retirement Fund established by section 122(a) of
16 such Act. All other members shall deposit such sums with
17 the Mayor of the District of Columbia for credit to the rev-
18 enues of the District of Columbia. If the member so elects, he
19 may deposit the total amount of such refund in monthly in-
20 stallments not exceeding twenty-four, except that in the case
21 of a member who is an officer or member of the United
22 States Park Police force, the Executive Protective Service,
23 or the United States Secret Service Division, such monthly
24 installments shall be of equal amounts. No deposit shall be

1 required for days of unused sick leave credited under subsec-
2 tion (h) of this section.

3 “(B) Interest required on deposits under this paragraph
4 for members who are officers or members of the Metropolitan
5 Police force or the Fire Department of the District of Colum-
6 bia shall be computed as follows:

7 “(i) Interest shall be paid at a rate which (as de-
8 termined by the Mayor of the District of Columbia) is
9 equal to the average rate of return on investment (ad-
10 justed to the nearest one-eighth of 1 per centum) for
11 the District of Columbia Police Officers and Fire
12 Fighters’ Retirement Fund (established by section 122
13 of the District of Columbia Retirement Reform Act) for
14 the period beginning on the first day of the first month
15 which begins after the end of the service with respect
16 to which the deposit is made and ending on the last
17 day of the month which precedes the month during
18 which the deposit is made if he makes a lump-sum
19 payment or during which he makes the first monthly
20 payment if he makes monthly payments, except that
21 for so much of any such period which precedes October
22 1, 1980, the average rate of interest on interest-bear-
23 ing obligations of the United States forming a part of
24 the public debt (adjusted to the nearest one-eighth of 1

1 per centum) shall be used in determining the interest
2 rate to be paid on deposits under this paragraph.

3 “(ii) Interest shall be payable for the period begin-
4 ning on the first day of the first month which begins
5 after the end of the period of service with respect to
6 which the deposit is made and ending on the last day
7 of the month which precedes the month during which
8 the deposit is made.

9 “(iii) If a member elects to make his deposit in
10 monthly installments, each monthly payment shall in-
11 clude interest on that portion of the refund which is
12 then being redeposited.”.

13 The amendments made by subsection (a) shall take
14 effect at the end of the ninety-day period beginning on the
15 date of the enactment of this Act. The amendments made by
16 paragraph (2) of subsection (a) shall not apply with respect to
17 deposits made, in whole or in part, prior to the end of such
18 ninety-day period.

19 COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

20 SEC. 209. (a)(1) The Policemen and Fireman’s Retire-
21 ment and Disability Act is amended—

22 (A) by redesignating subsections (m) through (s),
23 as redesignated by section 207(a)(1)(A) of this Act, as
24 subsections (n) through (t), respectively; and

1 (B) by inserting immediately after subsection (l),
2 as added by the amendment made by section
3 207(a)(1)(B) of this Act, the following new subsection:

4 "COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

5 "(m)(1) Each month the Mayor of the District of Colum-
6 bia shall determine the per centum change in the price index.
7 On the basis of this determination, and effective the first day
8 of the third month which begins after the price index shall
9 have equaled the rise of at least 3 per centum for three con-
10 secutive months over the price index for the base month each
11 annuity payable under this section which—

12 "(A) is payable to a survivor of a member who
13 was an officer or member of the United States Park
14 Police force, the Executive Protective Service, or the
15 United States Secret Service Division, and

16 "(B) has a commencing date on or before such ef-
17 fective date,

18 shall be increased by 1 per centum plus the per centum rise
19 in the price index. For purposes of this paragraph, the term
20 'base month' means the month for which the price index
21 showed a per centum rise forming the basis for a cost-of-
22 living annuity increase under this paragraph, except that,
23 until the first cost-of-living annuity increase under this para-
24 graph, the base month shall be the last month which was the
25 base month for purposes of subsection (k)(7) before its repeal

1 by section 209(b) of the District of Columbia Retirement
2 Reform Act.

3 “(2) With respect to any annuity payable under this sec-
4 tion which is payable to a member who was an officer or
5 member of the Metropolitan Police force or the Fire Depart-
6 ment of the District of Columbia, or to a survivor of any such
7 member, the Mayor shall—

8 “(A) on January 1 of each year, or within a rea-
9 sonable time thereafter, determine the per centum
10 change in the price index published for December of
11 the preceding year over the price index published for
12 June of the preceding year, and

13 “(B) on July 1 of each year, or within a reason-
14 able time thereafter, determine the per centum change
15 in the price index published for June of such year over
16 the price index published for December of the preced-
17 ing year.

18 “(3) If in any year the per centum change determined
19 under either paragraph (2)(A) of (2)(B) indicated a rise in the
20 price index, then—

21 “(A) in the case of an increase under paragraph
22 (2)(A), (i) each annuity described in paragraph (2)
23 having a commencing date not later than March 1 of
24 such year shall, effective such March 1, be increased
25 by the per centum change computed under such para-

1 graph, adjusted to the nearest one-tenth of 1 per
2 centum, and (ii) each annuity described in such para-
3 graph having a commencing date after such March 1
4 but before the effective date of the next increase in an-
5 nuities under this paragraph shall, effective such com-
6 mencing date, be increased by such per centum
7 change, adjusted to the nearest one-tenth of 1 per
8 centum, or

9 “(B) in the case of an increase under paragraph
10 (2)(B), (i) each annuity described in paragraph (2)
11 having a commencing date not later than September 1
12 of such year shall, effective such September 1, be in-
13 creased by the per centum change computed under
14 such paragraph, adjusted to the nearest one-tenth of 1
15 per centum, and (ii) each annuity described in such
16 paragraph having a commencing date after such Sep-
17 tember 1 but before the effective date of the next in-
18 crease in annuities under this paragraph shall, effective
19 such commencing date, be increased by such per
20 centum change, adjusted to the nearest one-tenth of 1
21 per centum.

22 “(4) The monthly installment of annuity after adjust-
23 ment under this subsection shall be fixed at the nearest
24 dollar, except that such installment shall after adjustment re-
25 flect an increase of at least \$1.

1 “(5) For purposes of this subsection, the term ‘price
2 index’ means the Consumer Price Index for All Urban Con-
3 sumers published monthly by the Bureau of Labor
4 Statistics.”.

5 (2) Subsections (m) (2) and (3) of the Policemen and
6 Firemen’s Retirement and Disability Act, as added by the
7 amendment made by paragraph (1)(B) of this subsection, shall
8 apply (A) to any increase after the effective date of such
9 amendment in annuities payable under subsection (k) of such
10 Act, except that with respect to the first date after the effec-
11 tive date of such amendment on which the Mayor is to deter-
12 mine a per centum change for the purpose of such an in-
13 crease, such per centum change shall be determined by com-
14 puting the change in the price index published for the month
15 immediately preceding such first date over the price index
16 published for the last month which was the base month for
17 purposes of subsection (k)(7) of the Policemen and Firemen’s
18 Retirement and Disability Act before the repeal of such sub-
19 section by subsection (b) of this section, and (B) to any in-
20 crease in each annuity payable under such Act having a com-
21 mencing date after the effective date of such amendment.

22 (b) Subsection (k)(7) of the Policemen and Firemen’s
23 Retirement and Disability Act (D.C. Code, sec. 4-531(7)) is
24 repealed.

1 (c) Section 301 of the District of Columbia Police and
2 Firemen's Salary Act of 1953 (D.C. Code, sec. 4-518) is
3 amended by adding at the end thereof the following new
4 subsection:

5 "(e) This section shall not apply with respect to officers
6 and members of the Metropolitan Police force or the Fire
7 Department of the District of Columbia who retire after the
8 effective date of this subsection."

9 (d) The amendments made by this section shall take
10 effect at the end of the ninety-day period beginning on the
11 date of the enactment of this Act.

12 AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

13 SEC. 210. Subsection (c) of the Policemen and Fire-
14 men's Retirement and Disability Act, as amended by section
15 205(c) of this Act and redesignated by section 209(a)(1)(A) of
16 this Act (D.C. Code, sec. 4-533), is amended by adding at
17 the end thereof the following new paragraph:

18 "(3) Except in a case of fraud against the District of
19 Columbia, the Mayor may waive collection of any amount
20 less than \$100 which was paid to an annuitant in excess of
21 the amount to which such annuitant was entitled under this
22 section."

23 COMMENCING DATE OF PAYMENT OF ANNUITIES

24 SEC. 211. Subsection (p) of the Policemen and Fire-
25 men's Retirement and Disability Act, as redesignated by sec-

1 tion 209(a)(1)(A) "accrues monthly" in paragraph (1) the fol-
2 lowing: "(except that an annuity accrues over any portion of
3 a month after the commencing date of such annuity but
4 before the first day of the next month and is payable for such
5 month in an amount pro rated in a manner to be determined
6 by the Mayor)".

7 PAYMENT OF ANNUITIES TO MINORS AND MENTAL

8 INCOMPETENTS

9 SEC. 212. Subsection (p) of the Policemen and Fire-
10 men's Retirement and Disability Act, as redesignated by sec-
11 tion 209(a)(1)(A) of this Act and amended by section 211 of
12 this Act (D.C. Code, sec. 4-534), is amended by redesignat-
13 ing paragraphs (2) and (3) of such subsection as paragraphs
14 (3) and (4), respectively, and by inserting after paragraph (1)
15 the following new paragraph:

16 "(2) Payment due a minor, or an individual mentally
17 incompetent or under other legal disability, may be made to
18 the person who is constituted guardian or other fiduciary by
19 the law of the State of residence of the claimant or is other-
20 wise legally vested with the care of the claimant or his
21 estate. If a guardian or other fiduciary of the individual under
22 legal disability has not been appointed under the law of the
23 State of residence of the claimant, payment may be made to
24 any person who, in the judgment of the Mayor, is responsible

1 for the care of the claimant, and the payment bars recovery
2 by any other person.”.

3 **PART B—TEACHERS’ AND JUDGES’ RETIREMENT**

4 **BENEFITS**

5 **COST-OF-LIVING ADJUSTMENTS OF TEACHERS’ ANNUITIES**

6 SEC. 251. (a)(1) Section 21(b) of the Act entitled “An
7 Act for the retirement of public school teachers in the Dis-
8 trict of Columbia”, approved August 7, 1946 (D.C. Code,
9 sec. 31-739a(b)), is amended to read as follows:

10 “(b)(1) The Mayor shall—

11 “(A) on January 1 of each year, or within a rea-
12 sonable time thereafter, determine the per centum
13 change in the price index published for December of
14 the preceding year over the price index published for
15 June of the preceding year, and

16 “(B) on July 1 of each year, or within a reason-
17 able time thereafter, determine the per centum change
18 in the price index published for June of such year over
19 the price index published for December of the preced-
20 ing year.

21 “(2) If in any year the per centum change determined
22 under either paragraph (1)(A) or (1)(B) indicates a rise in the
23 price index, then—

24 “(A) in the case of an increase under paragraph
25 (2)(A), (i) each annuity described in paragraph (2)

1 having a commencing date not later than March 1 of
2 such year shall, effective such March 1, be increased
3 by the per centum change computed under such para-
4 graph, adjusted to the nearest one-tenth of 1 per
5 centum, and (ii) each annuity described in such para-
6 graph having a commencing date after such March 1
7 but before the effective date of the next increase in an-
8 nuities under this paragraph shall, effective such com-
9 mencing date, be increased by such per centum, or

10 “(B) in the case of an increase under paragraph
11 (2)(B), (i) each annuity described in paragraph (2)
12 having a commencing date not later than September 1
13 of such year shall, effective such September 1, be in-
14 creased by the per centum change computed under
15 such paragraph, adjusted to the nearest one-tenth of 1
16 per centum, and (ii) each annuity described in such
17 paragraph having a commencing date after such Sep-
18 tember 1 but before the effective date of the next in-
19 crease in annuities under this paragraph shall, effective
20 such commencing date, be increased by such per
21 centum change, adjusted to the nearest one-tenth of 1
22 per centum.”.

23 (2) The amendment made by paragraph (1) shall apply
24 to any increase after the effective date of such amendment in
25 annuities payable from the District of Columbia teachers' re-

1 tirement and annuity fund established by section 2 of the Act
 2 entitled "An Act for the retirement of public-school teachers
 3 in the District of Columbia", approved August 7, 1946, or
 4 from the District of Columbia Teachers' Retirement Fund
 5 established by section 123(a) of this Act, except that with
 6 respect to the first date after the effective date of such
 7 amendment on which the Mayor is to determine a per centum
 8 change, such per centum change shall be determined by com-
 9 puting the change in the price index published for the month
 10 immediately preceding such first date over the price index
 11 published for the last month before such effective date for
 12 which the price index showed a per centum rise forming the
 13 basis for a cost-of-living annuity increase under section 21(b)
 14 of such Act of August 7, 1946, as in effect immediately
 15 before the amendment of such section by paragraph (1).

16 (b) Section 21(c) of the Act entitled "An Act for the
 17 retirement of public-school teachers in the District of Colum-
 18 bia", approved August 7, 1946 (D.C. Code, sec.
 19 31-739a(c)), is amended—

20 (1) by striking out "governed by the commencing
 21 date of each annuity payable from the fund as of the
 22 effective date of an increase" and inserting in lieu
 23 thereof "as provided in subsection (b)(2)"; and

24 (2) by striking out "from the fund" in paragraph
 25 (1) of such section.

1 (c) The amendments made by subsections (a) and (b)
 2 shall take effect at the end of the ninety-day period beginning
 3 on the date of the enactment of this Act.

4 COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

5 SEC. 252. (a) Section 11-1571(a) of title 11 of the Dis-
 6 trict of Columbia Code is amended by inserting “, or who,
 7 before the next such increase first becomes payable under
 8 such section, receives such salary or annuity, either” immedi-
 9 ately after “salary or annuity”.

10 (b) The amendment made by subsection (a) shall take
 11 effect at the end of the ninety-day period beginning on the
 12 date of the enactment of this Act.

13 INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

14 SEC. 253. (a)(1) The first section of the Act entitled
 15 “An Act for the retirement of a public-school teachers in the
 16 District of Columbia”, approved August 7, 1946 (D.C. Code,
 17 sec. 31-721) is amended—

18 (A) in the first paragraph by inserting “or the end
 19 of the 90-day period beginning on the date of the en-
 20 actment of the District of Columbia Retirement Reform
 21 Act, whichever is earlier” immediately before the
 22 period at the end of the proviso in the second sentence;
 23 and

24 (B) in the second paragraph—

25 (i) in the first sentence—

1 (I) by striking out "at 3 per centum per
2 annum compounded as of December 31 of
3 each year" and inserting in lieu thereof
4 "computed in accordance with section 24(a)
5 of this Act" and

6 (II) by striking out "an interest rate of
7 3 per centum per annum compounded annu-
8 ally" and inserting in lieu thereof "the inter-
9 est rate computed in accordance with section
10 24(a) of this Act"; and

11 (ii) in the second sentence, by inserting "to
12 the date of such death or separation or the end of
13 the 90-day period beginning on the date of enact-
14 ment of the District of Columbia Retirement
15 Reform Act, whichever is earlier" immediately
16 after "are made".

17 (2) Section 1A(b) of such Act (D.C. Code, sec.
18 31-721a(b)) is amended by striking out "with interest at 4
19 per centum compounded annually" in the first sentence and
20 inserting in lieu thereof ", with interest computed in accord-
21 ance with section 24(b) of this Act,".

22 (3) Section 8 of such Act (D.C. Code, sec. 31-728) is
23 amended in the first paragraph—

24 (A) in the second proviso in the sixth sentence—

1 (i) by striking out "the accumulated contribu-
 2 tions and interest" and inserting in lieu thereof
 3 "(1) the accumulated contributions", and

4 (ii) by inserting immediately before the colon
 5 at the end of such proviso " , and (2) interest
 6 thereon computed in accordance with section
 7 24(b) of this Act"; and

8 (B) in the seventh sentence, by striking out "with
 9 interest at 3 per centum per annum compounded
 10 annually".

11 (4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a))
 12 is amended—

13 (A) in the first proviso—

14 (i) by inserting "(computed to the date of
 15 separation or the end of the 90-day period begin-
 16 ning on the date of the enactment of the District
 17 of Columbia Retirement Reform Act, whichever is
 18 earlier)" immediately after "thereon", and

19 (ii) by inserting "(computed to the date of
 20 separation or the end of the 90-day period begin-
 21 ning on the date of the enactment of the District
 22 of Columbia Retirement Reform Act, whichever is
 23 earlier)" immediately after "interest" the second
 24 time it appears;

1 (B) in the second proviso, by inserting "(including
2 the interest thereon) plus interest computed in accord-
3 ance with section 24(c) of this Act" immediately before
4 the colon at the end of such proviso; and

5 (C) in the third proviso, by striking out " , with
6 interest at 3 per centum compounded annually".

7 (5) Section 10(f)(3) of such Act (D.C. Code, sec.
8 31-730(f)(3)) is amended by inserting after "interest" the
9 first time it appears " , earned prior to the end of the 90-day
10 period beginning on the date of the enactment of the District
11 of Columbia Retirement Reform Act."

12 (6) Such Act is further amended by adding at the end
13 thereof the following new section:

14 "SEC. 24. (a) For purposes of determining the amount
15 available to purchase an annuity under the second paragraph
16 of the first section of this Act, interest shall be deemed to
17 accrue on deposits at the following rates for the following
18 periods:

19 "(1) Prior to the end of the 90-day period begin-
20 ning on the date of the enactment of the District of
21 Columbia Retirement Reform Act, interest shall accrue
22 at the rate of 3 per centum per annum compounded as
23 of December 31 of each year.

24 "(2) For the period beginning at the end of the
25 90-day period beginning on the date of the enactment

1 of the District of Columbia Retirement Reform Act and
2 ending on September 30, 1980, interest shall accrue at
3 a rate which (as determined by the Mayor of the Dis-
4 trict of Columbia) is equal to the average rate of inter-
5 est on interest-bearing obligations of the United States
6 forming a part of the public debt (adjusted to the near-
7 est one-eighth of 1 per centum).

8 “(3) After October 1, 1980, interest shall accrue
9 at an annual rate which (as determined by the Mayor
10 of the District of Columbia) is equal to the average
11 annual rate of return on investment (adjusted to the
12 nearest one-eighth of 1 per centum) for the District of
13 Columbia Teachers’ Retirement Fund established by
14 section 123 of the District of Columbia Retirement
15 Reform Act.

16 “(b) Interest required on deposits under section 1A or 8
17 of this Act or under the Act of June 27, 1960, shall be com-
18 puted as follows:

19 “(1) Interest shall be paid at a rate which (as de-
20 termined by the Mayor of the District of Columbia) is
21 equal to the average rate of return on investment (ad-
22 justed to the nearest one-eighth of 1 per centum) for
23 the District of Columbia Teachers’ Retirement Fund
24 (established by section 123 of the District of Columbia
25 Retirement Reform Act) for the period beginning on

1 the first day of the first month which begins after the
2 midpoint of the period with respect to which the depos-
3 it is made and ending on the last day of the month
4 which precedes the month during which the deposit is
5 made if he makes a lump-sum payment or during
6 which he makes the first payment if he makes install-
7 ment deposits, except that—

8 “(A) for so much of any such period which
9 occurs between the end of the 90-day period be-
10 ginning on the date of the enactment of the Dis-
11 trict of Columbia Retirement Reform Act and Oc-
12 tober 1, 1980, the average rate of interest on in-
13 terest-bearing obligations of the United States
14 forming a part of the public debt (adjusted to the
15 nearest one-eighth of 1 per centum) shall be used
16 in determining the interest rate to be paid on de-
17 posits; and

18 “(B) for so much of any such period which
19 occurs prior to the end of the 90-day period be-
20 ginning on the date of the enactment of the Dis-
21 trict of Columbia Retirement Reform Act, the
22 rate of 3 per centum a year, compounded annual-
23 ly, shall be used in determining the interest rate
24 to be paid on deposits.

1 “(2) Interest shall be payable for the period be-
2 ginning on the first day of the first month which begins
3 after the midpoint of the period with respect to which
4 the deposit is made and ending on the last day of the
5 month which precedes the month during which the de-
6 posit is made.

7 “(3) If a teacher elects to make his deposit in in-
8 stallments, each payment shall include interest on that
9 portion of the refund which is then being redeposited.

10 “(c) Interest required on deposits under section 9(a) of
11 this Act shall be computed as follows:

12 “(1) Interest shall be paid at a rate which (as de-
13 termined by the Mayor of the District of Columbia) is
14 equal to the average rate of return on investment (ad-
15 justed to the nearest one-eighth of 1 per centum) for
16 the District of Columbia Teachers' Retirement Fund
17 (established by section 123 of the District of Columbia
18 Retirement Reform Act) for the period beginning on
19 the first day of the first month which begins after the
20 end of the service period with respect to which the de-
21 posit is made and ending on the last day of the month
22 which precedes the month during which the deposit is
23 made if he makes a lump sum payment or during
24 which he makes the first payment if he makes install-
25 ment deposits, except that—

1 “(A) for so much of any such period which
2 occurs between the end of the 90-day period be-
3 ginning on the date of the enactment of the Dis-
4 trict of Columbia Retirement Reform Act and Oc-
5 tober 1, 1980, the average rate of interest on in-
6 terest-bearing obligations of the United States
7 forming a part of the public debt (adjusted to the
8 nearest one-eighth of 1 per centum) shall be used
9 in determining the interest rate to be paid on de-
10 posits; and

11 “(B) for so much of any such period which
12 occurs prior to the end of the 90-day period be-
13 ginning on the date of the enactment of the Dis-
14 trict of Columbia Retirement Reform Act, the
15 rate of 3 per centum a year, compounded annual-
16 ly, shall be used in determining the interest rate
17 to be paid on deposits.

18 “(2) Interest shall be payable for the period be-
19 ginning on the first day of the first month which begins
20 after the end of the service period with respect to
21 which the deposit is made and ending on the last day
22 of the month which precedes the month during which
23 the deposit is made.

1 “(3) If a teacher elects to make his deposit in in-
2 stallments, each payment shall include interest on that
3 portion of the refund which is then being redeposited.”.

4 (b) The Act entitled “An Act to authorize certain teach-
5 ers in the public schools of the District of Columbia to count
6 as creditable service for retirement purposes certain periods
7 of authorized leave without pay taken by such teachers for
8 educational purposes”, approved June 27, 1960 (D.C. Code,
9 sec. 31-745), is amended—

10 (1) by striking out “and interest”; and

11 (2) by inserting immediately before the colon at
12 the beginning of the proviso “plus interest computed in
13 accordance with section 24(b) of such Act of August 7,
14 1946”.

15 (c) The amendments made by this section shall take
16 effect at the end of the ninety-day period beginning on the
17 date of the enactment of this Act.

18 INTEREST ON JUDGES’ REDEPOSITS

19 SEC. 254. (a) Subchapter III of chapter 15 of title 11 of
20 the District of Columbia Code is amended—

21 (1) in section 11-1561—

22 (A) in paragraph (9)(C), by inserting immedi-
23 ately before the semicolon at the end thereof “or
24 the end of the 90-day period beginning on the
25 date of the enactment of the District of Columbia

1 Retirement Reform Act, whichever is earlier”,
2 and

3 (B) in paragraph (10)(C), by inserting imme-
4 diately before the semicolon at the end thereof
5 “or the end of the 90-day period beginning on the
6 date of the enactment of the District of Columbia
7 Retirement Reform Act, whichever is earlier”;
8 and

9 (2) in section 11-1569(c), by inserting “or the end
10 of the 90-day period beginning on the date of the en-
11 actment of the District of Columbia Retirement Reform
12 Act, whichever is earlier” immediately after “such
13 judge” and before the comma.

14 (b) Such subchapter III is further amended—

15 (1) in section 11-1563(b), by striking out “at 4
16 per centum per annum to December 31, 1947, and 3
17 per centum per annum thereafter, compounded on De-
18 cember 31 of each year” and inserting in lieu thereof
19 “computed in accordance with section 11-1564(d)(2)”;

20 (2) by amending section 11-1564(d)(2) to read as
21 follows:

22 “(2) Interest on deposits under this subsection and sec-
23 tion 11-1567 (b) shall be computed as follows:

24 “(A) Interest shall be paid at a rate which (as de-
25 termined by the Mayor of the District of Columbia) is

1 equal to the average rate of return on investment (ad-
2 justed to the nearest one-eighth of 1 per centum) for
3 the District of Columbia Judges' Retirement Fund (es-
4 tablished by section 124 of the District of Columbia
5 Retirement Reform Act) for the period beginning on
6 the first day of the first month which begins after the
7 end of the service period with respect to which the de-
8 posit is made and ending on the last day of the month
9 which precedes the month during which the deposit is
10 made if the makes a lump sum payment or during
11 which he makes the first payment if he makes install-
12 ment deposits, except that—

13 “(i) for so much of any such period which
14 occurs between the end of the 90-day period be-
15 ginning on the date of the enactment of the Dis-
16 trict of Columbia Retirement Reform Act and Oc-
17 tober 1, 1980, the average rate of interest on in-
18 terest-bearing obligations of the United States
19 forming a part of the public debt (adjusted to the
20 nearest one-eighth of 1 per centum) shall be used
21 in determining the interest rate to be paid on de-
22 posits;

23 “(ii) for so much of any such period which
24 occurs between January 1, 1948, and the end of
25 the 90-day period beginning on the date of the

1 enactment of the District of Columbia Retirement
2 Reform Act, the rate of 3 per centum a year,
3 compounded annually, shall be used in determin-
4 ing the interest rate to be paid on deposits; and

5 “(iii) for so much of any such period which
6 occurs prior to January 1, 1948, the rate of 4 per
7 centum a year, compounded annually, shall be
8 used in determining the interest rate to be paid on
9 deposits.

10 “(B) Interest shall be payable for the period be-
11 ginning on the first day of the first month which begins
12 after the end of the service period with respect to
13 which the deposit is made and ending on the last day
14 of the month which precedes the month during which
15 the deposit is made.

16 “(C) If a judge elects to make his deposit in in-
17 stallments, each payment shall include interest on that
18 portion of the refund which is then being redeposited.

19 Interest may not be charged for a period of separation from
20 the service which began before October 31, 1956.”; and

21 (3) in section 11-1567(b), by striking out “at 4
22 per centum per annum to December 31, 1947, and 3
23 per centum per annum thereafter, compounded on De-
24 cember 31 of each year” and inserting in lieu thereof
25 “computed in accordance with section 11-1564(d)(2)”.

1 (c) The amendments made by this section shall take
 2 effect at the end of the ninety-day period beginning on the
 3 date of the enactment of this Act.

4 RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT
 5 OF PREDECEASED BENEFICIARIES

6 SEC. 255. (a) Section 5(b) of the Act entitled "An Act
 7 for the retirement of public school teachers in the District of
 8 Columbia" approved August 7, 1946 (D.C. Code, sec.
 9 31-725(b)), is amended by adding at the end thereof the fol-
 10 lowing new paragraph:

11 "(4) In the event an individual designated as a surviving
 12 widow or widower or as a survivor annuitant under this sub-
 13 section predeceases the teacher designating such individual,
 14 the annuity of such teacher shall, effective the day after the
 15 death of such individual, be the amount it would have been if
 16 no such beneficiary had been named."

17 (b) The amendment made by subsection (a) shall take
 18 effect on October 1, 1978, or at the end of the ninety-day
 19 period beginning on the date of the enactment of this Act,
 20 whichever is later.

21 TERMINATION OF TEACHERS' DISABILITY ANNUITIES
 22 BASED ON OUTSIDE EARNED INCOME

23 SEC. 256. Section 4 of the Act entitled "An Act for
 24 retirement of public school teachers in the District of Colum-
 25 bia" approved August 7, 1946 (D.C. Code, sec. 31-724), is

1 amended by inserting after the second paragraph thereof the
2 following new paragraph:

3 “Notwithstanding the foregoing provisions of this sec-
4 tion, if during any calendar year an annuitant who is receiv-
5 ing a disability annuity under this section and who has not
6 reached retirement age (as defined in section 3) receives
7 income from wages or self-employment, or both, in an
8 amount not less than 80 per centum of the current rate of
9 pay of the position occupied by the annuitant before retire-
10 ment, the annuity of such annuitant shall be terminated by
11 the Board of Education effective January 1 of the first calen-
12 dar year after such calendar year, except that this sentence
13 shall not apply with respect to income received during the
14 year in which the annuitant retired. The annuity of any annu-
15 itant whose annuity is terminated under the preceding sen-
16 tence shall be restored, at the rate which would have been in
17 effect but for such termination, effective January 1 of any
18 year following a year during which the amount of such annu-
19 itant's income from wages and self-employment is less than
20 80 per centum of the current rate of pay of the position occu-
21 pied by the annuitant before retirement, or effective immedi-
22 ately if the Board of Education determines that, outside of
23 normal fluctuations in such annuitant's income, such annu-
24 itant's income is reduced to a level which on an annual basis
25 is less than 80 per centum of such current rate of pay.”.

LEGISLATIVE HISTORY OF D.C. PENSION FUNDING

Public awareness of fiscal problems that can occur when public pension plans are underfunded, or, as in the case of the District of Columbia police and firemen, completely unfunded, has only surfaced in recent years.

According to a recent study by the Advisory Council on Intergovernmental Relations, one of the major fiscal problems facing cities today is the existence of underfunded locally administered retirement systems. While very few cities have systems which are funded on actuarial principles, even fewer have current actuarial valuations of their unfunded liabilities.

There are many factors that work against adequate funding of public plans, especially those of police and firemen. Because of their hazardous work, police and firemen are usually granted more generous benefits than other employees; and they tend to retire at an earlier age. Under current law, a District of Columbia policeman or fireman may retire at 50 percent of pay after 20 years service. Assuming he joins the department in his early 20's, it is not inconceivable that he will spend more time on the retirement rolls than in active service.

A more important factor, applying to all public employees, is the tendency to grant overly generous benefits because there is no immediate impact on a city's budget. The problem of paying for the benefits comes at a later time to a different group of elected officials than those who granted the benefits.

Cities across the country are now confronted with funding astronomically large pension liabilities. The day of reckoning is here and cities must either meet the problem squarely or face financial disaster.

However, the District of Columbia is unique. While their pension problems are not unlike those in many other cities, the circumstances that led to them are. Prior to home rule, Congress established the retirement plans. Congress set the benefit levels. However, Congress failed to provide funding. In addition, Congress mandated that the District hire an additional 2,000 policemen during the 1960's, making the force substantially larger than that for cities of equivalent size.

As a result, in October 1976, the unfunded liability of the police and firemen's retirement system was \$1.4 billion, teachers' \$635.6 million, and judges' \$9.5 million, making a total accrued unfunded liability of \$2.03 billion.

The police and firemen's pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers' Fund (Congressionally mandated to be maintained at \$61.5 million) is so inadequate as to be considered unfunded. The same can be said of the judges' \$1.3 million Fund.

Pension payments for police and firemen are currently 52 percent of the payroll and are estimated by the U.S. Treasury to be 105 percent of payroll by the year 2020.

Since 1950, the city's population declined from 802,000 to 701,000, and, according to U.S. Census estimates, the District will continue to lose 5,000 persons per year until 1980, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and Federally-mandated programs, and these budget items are rising at the rate of 4 percent per year.

Because of the role Congress played in establishing pension benefits prior to Home Rule, the responsibility to fund these plans clearly lies with Congress.

H.R. 3560 had its genesis in 1974 when the Report of the Organization of the Government of the District of Columbia (the Nelson Commission) expressed grave concern for the District's unsound pension financing. As a result of that report, the pre-home rule Government requested the Treasury Department to develop several methods of funding to put the pension plans on an actuarially sound basis.

The report, entitled "Financing Alternatives for the Police and Fire Retirement System", (April 25, 1974) proposed three financing options:

Option A—The prior unfunded liability is amortized the first 30 years of funding and financed by the Federal Government.

Option B—similar to Option A, but financed by both the Federal and District Governments.

Option C—A level percentage of payroll is actuarially determined that would pay pension costs as they are earned (the normal cost) and amortize the prior unfunded liability over the life of the Funds. Contributions are financed by both the District and Federal Governments.

Using the "Alternatives" report as a basis for funding, former Congressman Thomas M. Rees introduced pension legislation in 1974 and 1976; and Mr. Mazzoli introduced legislation in 1977.

On May 30, 1974, Congressman Thomas M. Rees, then Chairman of the Subcommittee on Revenue and Financial Affairs, in response to the Nelsen Report recommendations, introduced a bill, H.R. 15139, to establish and finance a retirement fund for police and firemen. Hearings were held by the Subcommittee on June 12, 1974, but the bill died in the Subcommittee because the Office of Management and Budget failed to acknowledge a Federal responsibility to assist the District in funding retirement benefits granted prior to Home Rule.

In 1976, Congressman Rees again introduced pension funding legislation (H.R. 12441, H.R. 13467, H.R. 14960), that was expanded to include teachers and judges in addition to police and firemen. This legislation differed from H.R. 15139 in the method of funding, the composition of the Board, and the inclusion of the provisions of the Employee Retirement Income Act of 1974 (ERISA) for managing the Funds.

Hearings were held and the bill, as amended, was reported to the Committee on April 28, 1976. The clean bill, H.R. 14960, was ordered reported by the full Committee on August 9, 1976. (H. Report 94-1728). The Office of Management and Budget again voiced strong opposition, and the bill was not considered by the full House.

In 1977 Congressman Romano L. Mazzoli introduced H.R. 2465, essentially the same bill as H.R. 14960. This bill, as amended, was reported to the Committee as a clean bill, H.R. 6536.

On April 6, 1977, the Subcommittee reported out H.R. 2465 as amended. Major amendments were to increase city representation on the Retirement Board, extend the investment restrictions to Maryland and Virginia bonds, real estate and agencies, and to retain the escalator clause for pension adjustments for current retired police and firemen.

The full committee ordered that the clean bill, H.R. 6536, should be reported to the House on April 25, 1977, the bill passed the House on September 27, 1977, and a similar version passed the Senate on August 24, 1978. Five conference sessions were held to resolve the differences between the two bills. The major differences concerned the amount of the federal payment and a cost control trigger mechanism. H.R. 6536, as amended in conference, and passed by both Houses, was sent to the President for his signature in October of 1978. Unfortunately, the President chose to veto the bill after the 95th Congress had adjourned. Attached is a copy of his memorandum of disapproval.

The bill, H.R. 3560, presently before the Subcommittee; is the same bill that was passed by both Houses and sent to the President.

PRESIDENT'S MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 6536 which would make certain changes in the retirement program for police, firefighters, teachers and judges of the District of Columbia.

This action today in no way alters my commitment to the basic principles of fairness and self-determination which must be the cornerstone of Federal-District relations. Included among our actions to fulfill this commitment have been (1) support of full voting representation, (2) support for expansion of "Home Rule" for the District and (3) support of efforts to provide greater equity and predictability to the financial relationship between the Federal Government and the District.

I have also proposed removal of the Federal Government from the District's budgetary process by 1982, as well as the development of an equitable Federal payment process on the District's revenues. This process must rest on an objective, equitable basis and not be used as a device to balance the District's budget. To achieve movement toward that goal, I recommended a Federal payment for fiscal year 1979 totaling \$317 million—the highest total ever recommended by a President.

It is against that background that my administration last year expressed its willingness to work with the Congress and the District to develop a sound, reasonable solution to the District's current financial difficulties with its pension

program for police, firemen, teachers and judges. Previous administrations have declined to acknowledge any Federal responsibility for the District's current pension funding problems. In the bill that passed the House of Representatives, my administration announced its willingness to assume 60 percent of the cost of making a transition to an actuarially sound system. This would have obligated the Federal Government to make payments of \$462 million over 25 years. Instead, the Congress ultimately adopted a different method of funding which identified the Federal responsibility as that portion of the unfunded liability attributable to employees who retired prior to Home Rule. This would require the Federal Government to pay more than \$1.6 billion over that same period.

This proposal fails to recognize that a large part of that liability derives from abuses of the disability retirement statutes which were permitted to flourish by those responsible for their effective administration. It undervalues or ignores the significance of Federal assistance through the Federal funding of benefits for thousands of District employees who participate in the Federal Civil Service Retirement System. I am therefore of the view that the enrolled bill overstates the degree of Federal responsibility.

Although the bill's benefit and disability retirement reforms are desirable, its failure to apply these reforms to current employees constitutes a serious and costly deficiency. While the bill contains a penalty clause, the purpose of which is to reduce the Federal payment if abuse persists, the application of basic statutory reforms to all employees would be a far more effective and efficient means of preventing a recurrence of the abuses which have prevailed in recent years.

Accordingly, I am compelled to withhold my approval from this bill.

I realize that many Members of Congress have worked long and hard with the administration on this question. I agree with them that there is indeed a Federal responsibility to see that his program is converted to one which is actuarially sound and which minimizes opportunity for abuse.

I look forward to working with the Congress and the elected representatives of the District of Columbia early in the next session to develop acceptable retirement funding and reform legislation. We are prepared to consider a reasonable Federal financial contribution, providing that provisions are included that fully remedy the problem of retirement abuses. Working together, I am sure we can place the District retirement programs on a sound basis in a manner which both limits the extent of Federal financial responsibility, while also recognizing the Federal responsibility in this area.

JIMMY CARTER.

THE WHITE HOUSE, November 4, 1978.

STAFF MEMORANDUM No. 2 ON H.R. 3560—DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

The purposes of the bill are: (1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia; (2) to establish a Retirement Board with responsibility for managing these Funds; (3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers and fire fighters, teachers, and judges are entitled; (4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and (5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia Self-Government and Governmental Reorganization Act.

The bill does not affect active or retired members of the U.S. Park Police, Executive Protective Service, or Secret Service.

MAJOR PROVISIONS OF THE HOUSE BILL

1. Establishes separate retirement Funds for police officers and fire fighters, teachers, and judges, but allows monies to be commingled for investment purposes.

2. Establishes an 11-member Retirement Board to manage the Funds. (Five appointed by City, 6 elected by active and retired employees.)
3. Requires that these Funds be managed on an actuarially sound basis to provide proper financing of benefits.
4. Prohibits investment of funds in District of Columbia, Maryland, and Virginia bonds, real estate, and agencies.
5. Gives the Retirement Board fiduciary responsibility over the Funds.
6. Requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).
7. Provides for federal payments into each Fund to help finance, in part, liabilities for retirement benefits enacted and administered by Congress prior to Home Rule.
8. Makes certain changes in benefits.

SUMMARY OF TITLE I—FINANCING OF RETIREMENT BENEFITS

Part A contains findings that the federal government and the Congress have a joint responsibility to assist in the liquidation of the unfunded liability of pension plans which were created by the Congress.

Part B establishes a Retirement Board—independent of the control of the District government—to manage the retirement funds established by this Part.

Part C prohibits the investment of the retirement funds in real estate or debt securities of the District government, Maryland or Virginia; and provide the funding methods for determining District and federal payments into the Funds. This section authorizes the federal contributions to the Funds. It provides for a modified net normal cost method of funding and requires the Mayor and the Council to include in their annual budgets at least the amount requested by the Board, and also allows them to include comments and recommendations on the budget amount.

Method of funding

Provides for a modified net normal cost method of funding that would (1) allow the District of Columbia to benefit from savings resulting from better management of the retirement program; (2) provide for a liquidation by the Federal Government of the unfunded liability on October 1, 1978 for those employees retired prior to January 2, 1975; and (3) provide for certain reductions in the Federal authorization. These reductions occur if the management of the police and fire retirement program allows current abuses to persist, thus causing the cost of the conference substitute to exceed 102 percent of the cost of the Senate provision.

Part D provides for strict reporting and disclosure requirements for all persons and activities dealing with the Funds.

Part E sets forth the fiduciary responsibilities and civil liabilities for the Funds' managers.

Parts D and E are modeled on the Employee Retirement Income Security Act of 1974 (ERISA).

SUMMARY OF TITLE II—CHANGES IN RETIREMENT BENEFITS

Benefit changes in House bill for D.C. metropolitan police officers and firefighters for present employees

1. Provides vesting in 5 years with the right to a deferred annuity at age 55. (Currently no vesting.)
2. Provides cost-of-living adjustments on March 1 and September 1 as in the Civil Service retirement system. (Currently at the same time and percent as active members.) Does not apply to current retirees.
3. Eliminates the aggravation clause for off-duty injuries and requires more strict accounting for aggravation claims for on-duty injuries. (Currently can receive disability retirement if duty aggravates injuries incurred off-duty.)
4. Conforms the timing of cost-of-living adjustments to those of federal retirees. An annuitant who retires after the adjustment would receive no less than if he had retired prior to the adjustment. (Currently annuitant does not benefit from increase if he retires immediately after an adjustment.)
5. Increases survivor annuities to conform with current Civil Service and Social Security practices.

For new hires

1. Bases pensions of 3 years' average pay, (Currently last year's average pay).
2. Changes eligibility for normal retirement to age 50 with 25 years' service. (Currently 20 years' service with no age limit.)
3. Disability retirements (currently no comparable provisions)—
 - (a) Board of Surgeons will determine the percentage of impairment.
 - (b) Retirement Board will determine within a reasonable time the percentage of disability, taking into account:
 - (1) Percentage of impairment;
 - (2) Position held prior to injury;
 - (3) Nature of injury;
 - (4) Age of member; and
 - (5) Other factors which may affect capacity to earn in disabled condition.
 - (c) An annuitant may earn the difference between his annuity and the amount he would be earning in the position he held prior to retiring exempting the income earned in the year in which a member retires. For every dollar over that amount, his annuity will be reduced by \$0.50. Every retiree must provide the Mayor a notarized statement of earnings or lose his annuity.
 - (d) A yearly medical statement by the Board of Surgeons or a doctor designated by them is mandatory. Requires yearly medical examinations, as per regulations issued by the Mayor, and provides for waiver of examinations in certain instances. If a retiree fails to provide this information, his annuity will be suspended until he fulfills this requirement.
 - (e) The medical and current earning statements shall be required for current retirees. Disability annuities will be terminated in cases of willful falsification of annual income reports and suspended until corrected reports are filed in other forms of willful noncompliance.
 - (f) No annuitant injured on duty will receive less than 40 percent of basic pay, and no annuitant injured off-duty will receive less than 30 percent of basic pay.

Benefit changes in House bill for teachers and judges

1. Repeals the one percent "kicker" on annuity adjustments and provides for cost-of-living adjustments on March 1 and September 1 as in the Civil Service retirement system. (Conforms to Civil Service retirement changes.)
2. Restores a retired teacher's full annuity (if teacher has elected to receive a reduced amount in order to increase survivor's annuity) if the beneficiary dies before the teacher. (Conforms to recent Civil Service retirement changes.)
3. Terminates a teacher's disability annuity prior to normal retirement if the teacher's earning power is comparable to the current rate of pay of the position occupied at the time the teacher retired on disability.

The CHAIRMAN. It is with a great deal of pleasure that I introduce our first witness this afternoon, the Mayor of the city of Washington, D.C., the Honorable Marion Barry. I would like to take this opportunity, on behalf of my colleagues and the staff, to welcome you this afternoon in your new capacity as the Mayor of the city. This is our first opportunity to meet in our respective new capacities. I hope our relationship will be whatever we desire it to be. I thought for a second, I would say long-lasting, but that might commit me to stay here past when I want to stay here.

**STATEMENT OF HON. MARION S. BARRY, JR., MAYOR OF THE
DISTRICT OF COLUMBIA**

Mr. BARRY. Thank you, Mr. Chairman. I listened very attentively to your remarks and the remarks of Mr. McKinney, our brave, bold warrior on the committee. I am very pleased to be here in the sense that you are the chair of this committee, and I am glad that Mr. McKinney is the ranking minority person on this committee. On the other hand, I share both of you all's feeling that the better course of action would

be not to have this committee or any kind of committee in Congress which oversees the affairs of the District of Columbia. On the other hand, if we have to have it, let's have some good friends here, and certainly you and Mr. McKinney have been friends to the District for a long time.

Mr. McKinney happens to be a Republican, but he thinks more like a lot of—in fact, sometimes better than some of the Democratic members of the committee. Mr. Chairman, I would like to introduce at this time Jose Gateres, who is Acting Director of Personnel of the District of Columbia Government, and Tom O'Brien, a member of our staff, who is Assistant City Administrator for Budget and Resource Development.

Mr. Chairman, I would like to ask that my statement in its entirety be put into the record.

The CHAIRMAN. So ordered.

[The prepared statement of Mayor Barry follows:]

STATEMENT OF HON. MARION S. BARRY, JR., MAYOR OF THE DISTRICT OF COLUMBIA

Mr. Chairman and Members of the Committee: I appreciate having this opportunity to present my views on H.R. 3560 which would bring long overdue reforms to the benefit and financial structure of the District retirement systems covering police officers, firefighters, teachers and judges.

I want to personally thank Chairman Dellums, Members of the Committee on the District of Columbia, and all the other Members of Congress who have sponsored this timely and vital legislation. I am here today to support H.R. 3560 with certain amendments, and to urge your prompt and favorable consideration of this measure.

BACKGROUND ON PENSION REFORM LEGISLATION

Mr. Chairman, you will recall that retirement reform legislation has been a high priority of the District Government since before the start of home rule. The legislative record on this subject is replete with numerous studies, proposals, and testimony from District officials on the need for, and approaches to, pension reform.

Last year, the 95th Congress enacted a comprehensive reform program (H.R. 6536) which would have revised public safety pension benefits for both current and future personnel, established actuarially sound pension funds partly financed by Federal contributions, and provided a structure for the management and governance of the City's retirement programs. The President vetoed the measure, however, on grounds that it overstated the degree of Federal financial responsibility for the unfunded liabilities of the City's pension plans, and failed to prevent a recurrence of disability abuses by current employees.

Shortly after taking office in January, I pledged that pension reform would be an important legislative priority of my administration. I indicated I would take a fresh look at the entire range of issues surrounding the City's retirement programs, and develop specific proposals that would address the major concerns of the Carter Administration, Congress and affected City employees.

Mr. Chairman, I am pleased to report that I have completed my review, and am prepared to outline my position on pension reform legislation at this time. I would further point out that I submitted my recommendation on this matter to the Office of Management and Budget in April of this year, and it is currently under review. Since my proposals bear directly on the legislation now before the committee, I believe it is appropriate for me to present my views for your consideration.

FOUNDATION FOR CURRENT REFORM LEGISLATION

Legislation identical to the bill before you now was passed by the 95th Congress as H.R. 6536. I think you agree with me that H.R. 6536 provides an excellent framework for examining issues in the areas of pension benefits, financing and

fund management. We should take every opportunity to benefit from the considerable amount of staff work and cooperation that went into the development of H.R. 6536 by the Committee, the entire Congress, the District and affected employee groups. Therefore, I propose that we accept H.R. 6536 as the foundation for any new initiatives, modifying its provisions only where necessary to fashion a package acceptable to all concerned.

While I support the basic thrust and most of the provisions of H.R. 6536, additional reforms are needed to realize the full benefits of this important legislation. Therefore, I ask you to consider amendments in four areas: benefits for current employees, benefits for new employees, financing the unfunded liability, and fund management and governance.

BENEFIT CHANGES FOR CURRENT PUBLIC SAFETY EMPLOYEES

I fully support the proposition that abuses in the disability system must not be tolerated. Taxpayers and public safety employees alike justifiably demand that disability benefits be awarded only to individuals who are truly disabled.

A series of steps taken over the last decade to scrutinize disability claims more rigorously have contributed to a reversal of the pattern in disability retirements that was experienced in the 1960's. With your permission, Mr. Chairman, I would like to submit for the record a statement highlighting the actions taken and the impressive gains that have already been made. Last year, for example, less than half (44%) of new retirements were attributed to disability cases compared to almost all new retirements (99%) in 1969. A recent survey conducted by the Comptroller of the State of New York found that performance-of-duty disability retirements for the District last year ranked below several large cities including New York, Chicago, Detroit, Baltimore, Boston and New Orleans.

Administrative improvements can only be partially effective since a critical part of the problem is due to the benefit and eligibility provisions of the police and fire retirement law. The city's attractive retirement program has played a central role in recruiting public safety employees, particularly during the massive buildup of the police force that took place about ten years ago as a result of Presidential and congressional action. With that in mind, I cannot support the imposition of drastic changes in benefits for current employees who suffer severe disabilities in the service of the city.

I am not ruling out disability reforms for current employees that are intended to close loopholes or correct errors made in deciding disability claims. I am in full agreement with the need to eliminate the aggravation clause, for example, as provided in H.R. 3560. This change is a simple matter of equity—injuries or diseases sustained while an individual is off duty should not qualify for performance-of-duty benefits. Furthermore, I will support four additional changes beyond those contained in H.R. 3560 which are also justified on equity grounds. These changes would:

1. Permit the city to revoke disability benefits at any time a retiree's outside earnings exceed the income limitation, not just before the annuitant attains age 50.

2. Permit the city to revoke disability benefits for individuals who become medically recovered at any time before age 60, rather than limiting medical recovery to persons below age 50.

3. Permit the city to revoke disability benefits promptly after ascertaining medical recovery or earnings restoration. Under current law, a disabled pensioner who is medically recovered or exceeds the income limit continues to draw disability benefits for one year after the determination is made.

4. Permit the city to determine the percentage of disability of every current employee presented for disability retirement to the Police and Fire Retirement Board, although current employees found to be disabled would continue to receive the same benefits now available.

In addition to making the system more equitable, Mr. Chairman, the changes I am proposing will simplify the administration of the program and remove certain financial incentives employees now have to qualify for disability retirement. Furthermore, I am confident that these changes will help prevent future abuses of the system. If abuses persist, however, I will propose necessary corrective action at the proper time. But before taking more drastic measures now, we should first determine whether abuses will continue under the proposed system and pinpoint the causes of any problems that remain.

BENEFIT CHANGES FOR NEW EMPLOYEES

H.R. 3560 would make sweeping changes in service and disability retirement benefits for uniformed employees hired after it becomes effective. The intent of these provisions is to achieve greater compatibility between the District's retirement plan and those provided public safety employees in other jurisdictions. Since optional and disability benefits would still be competitive with uniformed employee retirement systems throughout the Nation, I support the reforms contained in H.R. 3560. Another important element in designating retirement benefits concerns their impact on program operations and their comparability with benefits available to other District employees, especially normal service retirement provisions that are not intended to compensate for the special hazards of a public safety career. After reviewing H.R. 3560 from these perspectives, I recommend four additional changes:

1. Reduce the rate of benefit accrual from 3 to 2½ percent per year after 25 years of service.
2. Reduce the annuity to retirees who elect benefits for surviving spouses, since public safety personnel are the only group of District employees that do not contribute in some fashion toward the cost of survivor benefits.
3. Prohibit retired members from receiving double compensation if they return to civilian employment with the Federal or District Governments.
4. Reduce minimum disability benefits from 30 to 15 percent for off-duty disabilities, and from 40 to 25 percent for on-duty disabilities.

FINANCING THE UNFUNDED LIABILITY

Under H.R. 3560, the Federal Government would be responsible for pension benefits accrued for all employees who retired before home rule, a liability estimated last year at about \$900 million. The President's veto message characterized that liability as an overstatement of the Federal responsibility. Recent estimates prepared by the U.S. Treasury Department actuary indicate that the liability for those who retired before home rule is now \$1.1 billion, approximately \$200 million above last year's estimate. The recent figures reflect more current actuarial data and the Treasury Department's economic assumptions for retirement analysis.

In my opinion, a rational division of unfunded liability between the Federal and District Governments is absolutely essential for gaining support for comprehensive retirement reform legislation. For this reason, I have defined in very specific terms the portions of the total liability which I believe should be borne by each unit of government.

My basic position is that the Federal and District Governments should be held accountable for their actions within the scope of authority granted in the retirement area. I agree with the President, for example, that the District should share responsibility, however, is complicated by the effects of congressionally-approved authority to administer the disability program. Determining the degree of our responsibility, however, is complicated by the effects of congressionally-approved benefits and liberal court interpretations. Moreover, I am recommending that the city accept responsibility for new employees hired after home rule on grounds that our charter authorized the District to implement an independent merit personnel system as early as 1976 even though this was not possible as a practical matter.

On every other aspect of pension policy, however, the Federal Government made the decisions affecting District pension liabilities, including benefit and financing provisions, investment policy, and number of plan participants. I think the record convincingly shows that Federal decisions effectively removed all discretion from the District in these areas.

In addressing the division of responsibility, therefore, I take the position that the Federal Government should assume responsibility for the financial implications of these decisions. Specifically, this approach would assign to the Federal Government the cost of:

1. Optional and survivor benefits for all current retirees.
2. Optional and survivor benefits accrued to date for active employees hired before home rule.
3. A reasonable share of liability for current disabled retirees.
4. A reasonable share of the liability benefits accrued to date for active employees hired before home rule.

I am not in a position at this point to determine the financial liability the Federal Government would assume under this approach for sharing the total un-

funded liability. We have requested actuarial estimates from the U.S. Treasury Department based on the additional benefit changes I have recommended for current and future employees. Thus far, we have not yet received the Treasury actuary's analysis.

I can report, however, that based on the benefit package contained in H.R. 3560 the Federal Government would be responsible for approximately \$1.7 billion, or \$600 million above the current liability estimate for retirees alone. I would hope that my recommendations on benefit changes would result in a Federal liability closer to that envisioned under H.R. 3560.

FEDERAL AND DISTRICT SHARES

I understand the committee's concerns over the budgetary impact of financing the city's pension plans on an actuarially solvent basis. Given the background of the current system and the fact that the liabilities will have to be met in any case, I consider it unfair to limit Federal funding, which would result in a shifting of liability to District taxpayers. Approaches are clearly needed to finance the Federal obligation without creating a heavy drain on budgetary outlays.

As for the District's liability, I am committed to an actuarially sound method of financing along the lines proposed in H.R. 3560. Since the exact form and timetable for implementing advanced funding methods depend on benefit levels and Federal financing, however, some consensus on these issues should be reached before locking into a definite financing schedule.

One final change in the financing title of H.R. 3560 has a high priority. The penalty provisions of section 145, which would reduce Federal contributions on the basis of rather complex actuarial studies, should be dropped from the bill altogether. The proposals I have outlined in the benefit area change the basic incentives in the disability program, and thus provide a meaningful and constructive substitute to the approach used in H.R. 3560.

FUND MANAGEMENT AND GOVERNANCE

The bill would create a 12-member board of trustees to oversee the operation and investment of the retirement funds. The city would have a nonvoting ex-officio member who could not participate in board decisions. Six of the eleven voting members represent participants in the system, with the balance appointed to represent the community at large.

I question the need for and composition of the board of trustees in view of the high fiduciary standards and strict conflict-of-interest provisions in the bill. However, because of strong congressional and employee interest in the board, I will support it with certain changes in voting composition to give the city an equal voice in board deliberations. I recommend that one-third of the votes on the board be allocated to each of the following groups: members of the system, the city government, the general public. To accomplish this, I propose to:

1. Retain the same number of active and retired employee representatives (six) but give each a one-half vote, bringing the number of employee votes to three.
2. Add two city officials to the one already on the board, and give each city representative one vote.
3. Reduce the number of public members from five to three.

The resulting structure would give balance to the views of each party represented on the board. Moreover, it would assure that the public members hold the deciding votes on any controversial subjects that are evenly divided between employee and city government members.

CONCLUSION

I appreciate the opportunity to testify in support of H.R. 3560, and to present my position on this vitally important issue, the outcome of which will influence the District's financial condition for the rest of the century. I urge you to act favorably on H.R. 3560 and to give serious consideration to the amendments I have proposed.

My staff and I will be happy to respond to questions.

Mr. BARRY. I'd like to excerpt from it. Mr. Chairman, I am going to take some time with this statement because I think the occasion

is such that my views are fully known and put into the record as well as the public arena. Second, Mr. Chairman, as I have discussed with you on Monday, I personally came to testify so that I would let everybody know the strong concern that I have personally as the Mayor of the District of Columbia and the D.C. government has about this legislation. Out of all the pieces of legislation which is being considered by this committee and subcommittees, I put this among the highest because we are talking about large sums of dollars.

Therefore, Mr. Chairman, I would like to personally thank you and other Members of the Congress who sponsored this timely and vital legislation. I am here today to support, H.R. 3560 and certain amendments, and urge your prompt and favorable consideration of this measure.

BACKGROUND OF THE LEGISLATION

Mr. Chairman, let me also indicate that the retirement reform legislation has been a high priority of the D.C. government since the start of home rule. The legislative record on this subject is replete with numerous studies, proposals, and testimony from District officials on the need for, and approaches to, pension reform.

Shortly after taking office in January, I pledged that pension reform would be an important legislative priority of my administration. I indicated I would take a fresh look at the entire range of issues surrounding the city's retirement programs and develop specific proposals that would address the major concerns of the Carter administration, Congress, and affected city employees.

Mr. Chairman, I have done that and I have sent to you and have available complete document as to my analysis of my pension program, and I've given the city's position. Mr. Chairman, I think that the bill before us is an excellent framework from which to begin to move. We want to move hard to support this piece of legislation.

BENEFIT CHANGES

Mr. Chairman, let me indicate that we have tried in the District of Columbia to do a great deal to administratively correct this system with only so much as you can do. In 1978, only 44 percent of new retirees were attributed to disability cases compared to 99 percent in 1969. We intend to do as much as we can with the new law administratively to keep that situation even in a better light. We are faced with an unusual situation where, during this transition period—and I'm going to look into it—we have a number of people who are in flux. They are not retired, yet they are not working. They are on sick leave trying to determine what their status will be, and I hope we can try to come to some decisions on putting them to work or retiring them.

But, Mr. Chairman, administrative improvements can only be partially effective since a critical part of the problem is due to the benefit and eligibility of the provisions of the police and fire retirement law. The city's attractive retirement program has played a central role in recruiting public safety employees, particularly during the massive buildup of the police force that took place about 10 years, as a result of Presidential and congressional action in 1969 when Mr. Nixon was President.

With that in mind, I cannot support the imposition of drastic changes in benefits for current employees who suffer severe disabilities in the service of our city. These men and women were promised certain benefits and, therefore, I think that, even though it is going to cost us some money, we are morally—even though we are not legally—obligated to support the basic current benefit levels.

AGGRAVATION CLAUSE

However, Mr. Chairman, I think that you agree and I agree and the unions agree that the aggravation clause is one that, in my view, has been abused, even though it has been within the legal limits of the law. And therefore, I would support the efforts to eliminate that clause for both current and future employees. Mr. Chairman, there are four other areas I think that we ought to consider. Again, my staff and myself have looked very carefully and very critically at these, and obviously the easier course would be to continue with what we have now, and not to suggest an additional amendment but I think you ought to consider these four.

DISABILITY RETIREMENTS

Mr. Chairman, we would like to propose that the city be permitted to revoke disability benefits at any time retiree's outside earnings exceed the income limitation and not just before the annuitant attains the age of 50. Also, Mr. Chairman, we have a unique situation whereby if the city finds that an annuitant has become medically recovered at any time before age 50, it takes us a year to get that person back to work. Our amendment would propose that whatever time that person becomes medically sufficient to come to work, that immediately the disability retirements are eliminated. It's a strange situation where you go for a whole year when you knew you were medically recovered, and yet the city cannot do anything about it.

The third part of that, Mr. Chairman, in this day of freedom—freedom from sexual harrassment and discrimination from age harrassment, we think that the age ought to be increased to 60. People are living older, and therefore 50 was done back in the days, I guess, when we thought that a person could not work after 50 years of age. So we are suggesting the third amendment, that we be able to revoke disability benefits if the person is medically recovered up until age 60, as opposed to age 50.

Finally, Mr. Chairman, we would like to set the tone so that the city will be able to determine the percentage of disability of every current employee presented for disability retirement to the Police and Fire Retirement Board. Under the persent bill, Mr. Chairman, new employees will be subject to a percentage of disability, and that is to determine what their annuity would be. We think that the current employees ought to also be subject to that percentage factor, even though it would have no bearing on what their final annuity will be. Again, I think it will give us an idea of what that flexibility disability ought to be. Again, I emphasize, it would not affect their final retirement moneys. It would only give us an indication of the severity of their disability.

AMENDMENTS PROPOSED

Those are the four amendments I would urge the subcommittee to look at and to consider. I don't think they at all change the major thrust of the bill or it may be that the fire and police union, people may have some difficulty with some parts of it, but I think that most of the difficulty appears to be not to get us too far out of line with where we were before so as to insure a speedy passage. I think that there ought to be general agreement that the system ought to be brought into the 20th century whereby people who are 60 can be brought in or whereby it won't take us a year to get people back to work who are medically recovered and drawing benefits.

Mr. Chairman, those are the only changes I'm suggesting for the current employees. In my administration, there were a number of other recommendations given to me, at least another 8 to 10 others that I rejected because I did not want to disrupt that system anymore than it will be disrupted, and also because we have come to some general agreements in the last Congress as to current employees.

And finally, Mr. Chairman, we don't want any other people in Congress to use what we do here as an example or what you do in the military or anything else. We think those fights ought to go on independent of us. If there are people around who want to bring current military people in, they ought to do that, but don't use our fire and police as an example of how we did it to them, and therefore we can do it to the military. I happen to agree that there ought to be some reforms there, too.

NEW EMPLOYEES

Mr. Chairman, in terms of new employees, H.R. 3560 would make sweeping changes in service and disability retirement benefits for uniform employees hired after it becomes effective. Since optional and disability benefits will still be competitive with uniform employment retirement system throughout the nature, I support the reforms contained in H.R. 3560. Another important element in designing retirement benefits concerns their impact on program operations and their comparability with benefits available to other District employees.

Mr. Chairman, again, in the area of new employees, in addition to the great reform that this bill introduces into the system, I would like to suggest that you consider four others. That is, you reduce the rate of benefit accrual from 3 percent to 2½ percent per year after 25 years of service. I have done surveys and studies around the country, and this seems to be in line with what is happening in most other cities.

SURVIVING SPOUSES

Mr. Chairman, I again would like to call your attention to a situation which, again, we are trying to bring some comparability to our system. That is, we would propose that we reduce the annuity to retirees who would like benefits for surviving spouses since public safety personnel are the only group of District employees who do not contribute in some fashion towards the costs of survivor benefits.

Mr. Chairman, that means that in our GS system, the spouses or the survivors do not get these benefits without paying for them, whereas in

the fire and police system, the surviving spouses do get these benefits and have not contributed to their input into them. We think we ought to bring about some equity whereby all of our employees, both GS and fire employees will contribute equally to their—that is their surviving spouses will do that, unlike what happened. Again, this is for new employees. The current employees would continue—their surviving spouses will continue to receive the benefits without contributing to the funds to do so.

DOUBLE-DIPPING

Mr. Chairman, the third area—which is one that has been talked about a great deal is that we would like to prohibit retired members from receiving double compensation. That is, if a person is drawing income from the retirement system in the fire and police system, we would like not to be able to bring him back to the D.C. government as a civilian employee and pay him or her not only their GS salaries, but they also get their retirement benefits. The whole question in the idea of retirements is to allow people to live after they have finished their service, not to make more money at the cost of the system. That is commonly called double-dipping.

The fourth one, Mr. Chairman, is to reduce the minimum disability benefits from 30 percent to 15 percent for off-duty disabilities and from 40 percent to 25 percent on-duty disabilities. Again, Mr. Chairman, we think you ought to have a lower ceiling which gives you greater flexibility. Right now under the present bill, you could have a minor injury and because it was severe enough to retire, it would not be as much as 30 percent. But under the present proposal you could retire, whereas we would like to bring it down even to 15 percent for off-duty disabilities to give us some flexibility for that.

Also, Mr. Chairman, I think when you bring that down, it gives the departments more flexibility to use the manpower in a different way as opposed to just having to retire them without options. We also would advocate that we reduce the on-duty disability retirement benefits from 40 percent to 25 percent. Again, I think it gives us flexibility to programmatically keep people on or, if they get off, if they are only 25-percent disabilities, they don't get 40 percent of the income.

It is possible to have a person who, by medical examinations, who is only 25-percent disabled in terms of just their ability to perform, but yet they would end up getting 40 percent of their base salary when they retire because the law says the minimum is 40 percent. We would advocate 25 percent.

FINANCING UNFUNDED LIABILITY

Mr. Chairman, the other area—the more important area of this legislation—is financing the unfunded liability. Mr. Chairman, we have outlined a number of series of steps that we think are very, very important. It is our position that the Federal Government should assume responsibility for the financial implications of the decisions of the past. Specifically, my approach would assign to the Federal Government the cost of optional and survivor benefits for all current retirees—that is, all of those persons who retired prior to 1975. We would urge that the Federal Government pick up the entire benefits for those employees.

Those employees were under a system imposed on us by the Congress and the President, and therefore, the Federal Government participated in it. It ought to pay the costs.

Mr. Chairman, we would advocate that those persons who were hired before home rule who were still on the force ought to come under the purview—economically and financially—of the Federal Government. The Federal Government should pick up that entire cost.

COSTS

Mr. Chairman, we also think there should be a reasonable share of liability for current disabled retirees, that is, Mr. Chairman, from 1975 on, for those persons who retired after they were hired. If they came on board after 1975, we think that the Federal Government should pick up a reasonable cost. Also, in terms of the fourth point, Mr. Chairman, and members of the committee, we think that the Federal Government should pick up a reasonable amount of the costs for those hired before home rule, and that is a combination of four factors, and when we add that all up, we think we are approaching about \$1.1 billion. Again, we do not know because we have asked the Treasury to give us the actuary figures about this.

We would like to work with the committee and the Treasury and the White House on trying to come to some basic actuary studies, once we accept the proposition as to who ought to pay. Again, it is clear to me, Mr. Chairman, the city's position that the Federal Government should pay the entire cost of those persons who retired prior to 1975, and then we ought to debate what portion of that the Federal Government ought to pay or the city ought to pay for those persons who retired after 1975 who were on board before 1975, and also what proportion ought to be paid for those persons who came to work after 1975. And that is our basic position.

We hope that this will be a position which the subcommittee could support, and it is a matter, then, of figuring out the cost or the money. In H.R. 3560, the Federal Government would be responsible for about \$1.7 billion, or \$600 million above the current liability estimates for the retirees alone. I hope that my recommendations on benefit changes would result in a Federal liability closer to that envisioned under H.R. 3560.

I understand the committee's concern over the budgetary impact of financing the city's pension plans on an actuarially solvent basis. Mr. Chairman, given the background of the current system, and the fact that the liabilities will have to be met in any case, I consider this is unfair to limit Federal funding which will result in a shifting of liability to District taxpayers. It is the Federal Government's responsibility to pick up this funding and not the D.C. government and its taxpayers.

Therefore, we have to ask the committee to approach this in an equitable way. Mr. Chairman, in terms of the District's own share, even under H.R. 3560, the District government will be paying out of its own funds a great deal more than the Federal share of this formula. Therefore, Mr. Chairman, I would just urge us to push ahead on an equitable amount of money, and it seems to me, we ought to be able to get closer to the dollar amount as we get more information in the next 3 or 4 days.

FUND MANAGEMENT

Finally, Mr. Chairman, the whole question of fund management and governments, the bill would create a 12-member board of trustees to oversee the operation and investment of the retirement funds. Mr. Chairman, in view of the new erections in the country whereby, when cities attempt to market their general obligation bonds and their revenue bonds, increasingly pension liabilities become a part of your liability side of your balance sheet. It seems to me that the executive branch of the government and the legislative branch of government should have more control as to how that balance sheet looks.

The present bill only allows that the executive branch of government has a nonvoting ex officio member of the board who could participate in board decisions, but not vote. Six of the eleven voting members represent participants in the system under the present bill, with the balance appointed to represent their community at large; which means, Mr. Chairman, for all practical purposes, only through the five members that are appointed by the Mayor—and I learned a long time ago that just because you appoint someone to something does not mean that they represent the Mayor's views always. They tend to get rather independent, too, when they get these positions that they are locked into for a number of years. So I would suggest that we make this a tripartite board, a board that would have the city with one-third of the voice and vote with the participants in the system having one-third of the voice and vote, and the citizens at large having one-third of the voice and vote.

To accomplish this, Mr. Chairman, I propose that we maintain the same number of active and retired employees' representatives—six, but give each one-half vote, bringing the number of employee votes to three. Add two city officials to the one already on the board, and give each city representative one vote. Reduce the number of public members from five to three. Again, Mr. Chairman, you have a board whereby the city would have one-third of the vote, the participants in the system one-third of the vote, and the public at large one-third of the vote. I think that is a reasonable balance in the sense that if you look at a number of boards and commissions in the District of Columbia—and I will raise one that is rather controversial, but it is the Rent Control Commission. It has three members representing the landlords, three members representing the tenants, and three representing the public at large which means the public members cannot counterbalance in this situation if there is an impasse between the public employee representatives and the city.

And, again, Mr. Chairman, I emphasize this not because I want more to do, but I think if we are going to have to publish our pension fund liabilities or assets—in this case, liabilities since there are no assets, and it is going to either hamper or help our ability to market our bonds after we get our books in order. Then the executive branch of the government ought to have more voice and more vote in the management of this fund. Otherwise, we find ourselves having to take the responsibility for something that we have no authority over. That concludes my comments and statements, Mr. Chairman.

I have covered a wide range of items here. I did it because I think it is important that this subcommittee know the full range of the D.C.

government. In the past, we have been accused of not giving our position and not knowing what it is, so I have taken this opportunity to outline in a number of areas and views of the executive branch of government. Again, I came to represent this executive branch of the government. We have been in touch with the legislative branch, council, and they strongly support our efforts to get legislation passed this year—and this year that will be effective in fiscal 1980 to insure that we begin to get our pension plans in order.

And I would like to thank you and Mr. McKinney and the others for being this attentive and giving me the opportunity to take longer than I would have liked to have taken, giving the city's views on such an important subject.

The CHAIRMAN. I want to thank you very much, Mayor Barry, for your opening remarks, and I appreciate the fact that we were able to receive your testimony early enough to go over the various recommendations with our staff, with employee groups who are involved, and with other people in their community and in their Congress. And, as you know, some of your proposals are more controversial than others, depending on which group one is speaking to. So inherent in many of the questions I want to ask you with respect to your recommendations will be thoughts and questions on the ideas that have arisen as a result of our going over this with yourself and your staff, as well as the people that we are trying to consult.

RETIREE'S DISABILITY BENEFITS

With respect to questions No. 1 and 2—or rather, the changes that you suggest on page 5, 1 and 2, dealing with current employees, if we accept your proposal to revoke an employee's disability benefits at any time for income reasons and up to age 60 for medical reasons, how, in terms of normal retirement benefits, would you compensate such a retiree? Would you give him or her service credits for the years of disability or whatever? How much would this cost? And would it be fair not to compensate the disabled employees for lost years of work, years when they, at least theoretically, could have been saving and building service credits for retirement?

Mr. BARRY. I would like to ask Mr. O'Brien to speak to that.

The CHAIRMAN. Mr. O'Brien?

Mr. O'BRIEN. Mr. Chairman, under the bill as it is now before you, someone who has recovered after the age of 50 would not receive any reduction in their benefits. They would continue to receive their benefits for life, whether that is medically recovered or income-restored. The Mayor's proposal in moving age from 50 to 60 in the medical case and no age limit in the income case would leave the employee the following options under the bill: If the employee was under age 55—in other words, between age 50 and 55, the employee would have the right to come back in the department from which he retired if he was medically recovered or he would have the right to wait until age 55, and receive a deferred annuity under the deferred annuity provisions of the bill.

What the Mayor is saying here is that the employee ought to have those rights, and those rights will protect the kind of case you alluded to in your question. However, the Mayor is going beyond that, and he

is making a further proposal, and that is for employees who did not have enough years of service to qualify for a minimum service retirement by age 55. The Mayor would insure that they would get the minimum 50 percent of salary benefit that is the entitlement under the regular normal service retirements, so I think the Mayor's proposal speaks directly to the question that you raised in terms of providing an adequate benefit floor for someone who was caught in the position where they were retired under a disability for a substantial period of time, have now become recovered, do not have enough time left to reach minimum service credit. They would automatically get the minimum service benefit.

Mr. BARRY. Mr. Chairman, let me just emphasize what my ideas about retirement and benefits are about. They are to insure that persons who work in the service of the government or even in private employment, when they are no longer actively on the job, no longer actively working, there can be a minimum floor which is almost a guaranteed income which they can receive for life, which means that they don't get caught up in the throes of economic disaster and financial hardship if they know that in advance.

It seems to me that in this day and age when age is becoming less and less relevant to employment that it is not fair for a person to be drawing retirement benefits at age 55 or age 60 and get into a different income bracket. They may go into a consultant service where they may get a job offer to be a special consultant to a mayor for police services or fire services which means that they earn their regular income and then their retirement income. We do not think that is fair. That is what those two provisions do.

On the other hand, as Mr. O'Brien pointed out, it does give us also a minimum floor at 50 percent in any circumstances. I hope I have tried to be responsive.

DISABLED RETIREES RESUMING WORK

The CHAIRMAN. I think I understand your response. Now, I think we can pose hypotheticals, but one of the hypotheticals we posed that was implicit in the question I raised was, a person injured early in one's career and for whatever reason—a medical breakthrough or whatever—the person then becomes capable of working later in life. The question that I have then—here is a person after years where he's earning at the lowest level in his earning capacity—what happens to that human being?

You pointed out that that person can come back to the same agency. That is an option available, but I would suggest that that person cannot come back at the theoretically higher level that they would have been able to move to had they had the capacity to work through from age 25 to age 55. They may have become a higher ranking person. And so, in one sense, this proposal precludes that possibility, or certainly raises some significant questions with respect to how you compensate, because we are in grey areas where it seems to me very difficult to calculate over time how far would this person have gone in 20 years. Would this person have become a lieutenant or would he have become a sergeant?

So it seems to me, once you walk into this area—whether you walk into it from your vantage point or our vantage point—it seems to me you are walking into very grey areas of rather difficult calculations of capability.

Mr. O'BRIEN. I would raise for the city's consideration another aspect of this same question you are posing, and that is, what about the individual who did not become disabled and stayed on the force for those extra 10 or 15 or however many years you want to hypothetically talk about who was able, through his or her diligence, to move up through the ranks. If you are giving an extra credit to someone who was on retirement for that period of time—recognizing, of course, that that person's income on retirement has increased with pay raises and so forth over the years, so the person's income isn't what it was at the time the person retired, then are you not creating an inequity as well? One person stays on the force for that extra 15 years and gets the promotions and so forth involved. The other person has not provided a service, for good reason.

Well, I think what you are suggesting is that that person ought to get a promotion for a service he did not render.

Mr. BARRY. Mr. Chairman, let me suggest that I think that hypothetical you raised—if you look at the statistics and the data—probably with our new reforms and tightening up administratively, it would be very remote. I know if you pull legislation together, you are going to miss 1 or 2 percent of those who may fall between the cracks, but I think the vast majority of the persons affected by this proposal—I appreciate your example—but they would not be affected by that example. And I think what we are going to find—and, again, let me just emphasize the purpose, as we both agree, of retirement system, that if someone gets injured on the job in the line of duty fighting a fire or chasing after an assailant or someone who would commit something against this society, that person ought to be protected so when something happens, he or she and his or her family will have some knowledge that there is going to be an income floor there for them.

The idea ought to be to keep as many people working as we can. I believe people ought to work and, therefore, it is only when they are incapable of working, medically or physically or mentally, should you then have good benefits for them to do so. So I think, again, 60 is not unreasonable to have a medical recovery clause in it. We just had a debate this morning in my office. There is a clause in the District of Columbia Code which requires any employee of the District of Columbia Police Department or Fire Department to have to get permission from the Mayor to stay on after 60. We were debating whether that is a good and reasonable vision in 1979. You know, we were looking at it as it relates to one person on the force.

The other has to do with income. Again, with all the Federal programs and other programs around—LEAA and others—they are all opportunities for people to earn money, but, again, I think it defeats the purpose of retirement. The purpose of retirement is to give you an income floor, not to allow you to go and make that and then go and make other money, too, that will give you \$40,000 or \$50,000 or \$60,000 a year.

Mr. O'BRIEN. Mr. Chairman, if I could make just one closing or quick comment on that? The hypothetical case you raise is a problem under the current law as well. It is a problem under the bill that is before you now, and the Mayor—all the Mayor is doing in his proposal is dealing with those who are over age 50. The problem you pose presently exists for those under age 50, both under the current law and under H.R. 3560, and that has not become a problem throughout the history of the current program. So perhaps the Mayor's point about the hypothetical example not being many instances of that really is accurate.

The CHAIRMAN. Fine. I appreciate the point. I will not drag this out. I would like to go on to another point, but I would simply like to indicate that we are not simply talking about people who are retiring. We are talking about people who, at some point, were disabled which means that they were victims of some kind of accident, illness or whatever. How do you calculate that factor in? You are talking about people who suffered some disability working for the public benefit, and the question that I pointed out was, how do you compensate for that?

So I do think that while we can play hypotheticals back and forth at each other, it seems to be clear that we are walking in very grey areas. How do you compensate a person for the human misery of being crippled in a leg or an arm, or even if they do have the capacity to come back and work. Whether one, who was a healthy human being for 15 years and one who wasn't, we have to get into a position with morale problems because they end up at the same point with the same money. Where is the human factor? The human emotion is from attempting to compensate people for that level of human misery. That is simply the point that I am trying to make. I appreciate the point you are making, and we will take all these things into consideration.

I would simply suggest again that we are talking about a grey area here where I certainly don't feel comfortable in trying to figure out at this moment how you calculate human misery over time. It is just a very difficult thing.

Mr. BARRY. Let me point out, Mr. Chairman, that under the proposed present bill H.R. 3560 and under the present law, the city now has authority—the city now has the authority to revoke disability benefits at any time up to age 50 so the base of your question is not solved by anything else. That is presently the whole question of human suffering and human misery, and if you get on the force when you are 18 or 21 and you are injured when you are 31, and the most productive years of your life are knocked out. Under the present law and under what you proposed in H.R. 3560, up until age 60 we still can revoke that disability requirement based on income and medical recovery.

The medical recovery area allows you to go to 60, and that we permit you to revoke income even after 50. That is the only two things we have raised, so the question you have raised, Mr. Chairman, is already here. It is in the bill. It is applicable now. It is not a new example. If it is inequitable with our proposal, it is inequitable now because that is what is happening. So we are only asking that you revoke the income part of it.

I can sympathize and understand the problems of a younger person being injured, but right now, the city government has the authority to bring people back to work or revoke their disability if their income is above a certain level and they are under age 50. That does not get around your question or your problem.

The CHAIRMAN. Thank you very much. I would like to yield to the ranking minority member, Mr. McKinney.

Mr. McKINNEY. Thank you, Mr. Chairman. I will be brief because we have a vote, and I know you have a very busy schedule, too. You have authority now, do you not, under home rule to invoke these changes for any new employees which you hire?

Mr. BARRY. Yes.

Mr. McKINNEY. Have you done it?

Mr. BARRY. I do not think so. I do not know. I can find out.

Mr. McKINNEY. In other words, I am going to ask you, if we are going to dive over the cliff, has the city done it?

Mr. BARRY. We are in the process now of moving to implement the new personnel act. Most of those provisions come into play January 1, 1980, as an actual part of it. And we do intend to use that power and authority. We will never ask—or at least I would not ask—the Congress to do something I am not prepared to do myself.

Mr. McKINNEY. You have been on the other end of the leash too long; right?

Mr. BARRY. Yes, sir.

Mr. McKINNEY. As far as we are concerned here.

Mr. BARRY. That is right.

Mr. McKINNEY. We ask everyone to do everything. We just do not pay any attention to ourselves. If you lower these disability annuities for police and fire, are they going to end up lower than the GS employees—general service employees?

Mr. BARRY. Would you repeat that again, Mr. McKinney?

POLICE AND FIREFIGHTERS AND GS EMPLOYEES

Mr. McKINNEY. If you are lowering these basic minimums for the police and fire, are they going to end up below the general service employees as far as minimum benefits are concerned?

Mr. BARRY. They could be. I think the answer, if I had to give a straight one, would be yes, in some instances.

Mr. McKINNEY. I find it difficult—not that I do not think everyone works for a living, and I do not negate anyone's job—but I find it a little difficult, having had a recent intimate experience with the police department, to feel that their pension should go below a general service. [Pause.] I guess that was a rhetorical statement question.

Mr. O'BRIEN. Mr. McKinney, the general service retirement provisions provide a minimum disability benefit of 40 percent. The provisions under the bill before you would also have a minimum of 40 percent, so to that extent, the approach before the committee is comparable with the general schedule of civil service. However, the civil service disability concept is not a partial disability concept. It is not constructed to be a partial disability concept. It is constructed to be, either you are disabled or you are not disabled, and then the benefit is

not a function of how disabled you are. I think the Mayor's thinking on this is that if the benefits of partial disability concept are to be realized, then we ought not to treat someone who has a disability rating of 10 percent with the identical benefit of someone who has a disability rating of 60 percent—approximately 60 percent which is what the bill before you would provide.

So, someone who goes through the partial disability process and is found to have a disability that rates him or her at 10 percent would get the identical benefit of someone who has nearly a 60 percent now—a 57-percent disability rating, if it is a nonduty injury, and I think in the context of what the partial disability program is all about, the lower floor is what has been proposed by the Mayor.

The civil service system is not a partial disability system.

Mr. BARRY. Plus, Mr. Chairman, and Mr. McKinney, I think—

Mr. McKINNEY. I am sorry. There is an obstructionist load on the floor, and we have decided the Nation can go on without us on this earth-shaking question.

Mr. BARRY. Mr. McKinney, I think it is important to know that Mr. O'Brien indicated that the civil service system is seldom times perfect, but, again, it is an all or none kind of approach, and I think we balance off the benefits that police officers and fire officers get that are different than our general schedule employees. The length of service is different. I know that the job is a little bit more hazardous, if you are fighting fires or chasing people or trying to stop crime, but also there are general schedule employees who would argue that the work at Lorton is just as dangerous as it is to be a police officer or to work at Tilden's Center or the sanitation workers who would argue that picking up trash is just as dangerous to your health, eventually, you know, picking up all the various kinds of possible diseases as being a police officer.

TWENTY-YEAR OR THIRTY-YEAR RETIREMENT

I have not come to the decision whether I believe this group, but there are arguments on both sides of that point. The GS employees would argue for shorter time—30 years to 20 years. I met 3 weeks ago with the sanitation workers. They want 20-year retirements as opposed to 30 years. They want to have some partial disability kinds of benefits. They think they are being forced to work when they are injured because they have either got to take all or none. So I think there are arguments on both sides of this.

Mr. McKINNEY. I would agree with you, and I think this statement would be nothing but 3,000 votes for my next opponent, but this 20-year stuff, I have a very firm feeling about. If you sign a contract, you sign a contract, and we need to change our whole social security system. But despite the dire predictions of the environmentalists and everyone else, and all of the carcinogens we are taking, we are living to such a ripe old age in this country that we have just totally made a disaster out of every pension program, even if it had been planned properly to start with which this one was not. Boy, I tell you, the days of 20 years, if any government is going to survive, they are all going to have to go down the tubes for our new employees. God bless our children coming along—they are going to have to hit the 30 years or they are just—we are not going to make it.

Mr. BARRY. Do you think they ought to be adding time to—

Mr. McKINNEY. No; we don't change contracts in the middle of the stream—the new ones. But if you hypothetically take the age—the average American male, theoretically—it is obviously not true in this case—but he will live to be 72.4 years of age or something like that. If you take going into public service at 18 and getting out at 38, do you mean to tell me anyone thinks that society can support a person from the time they are 38 to the time they are 72? There is just no way that it will ever happen. It is crazy on the face of it, plus the fact that in 10 to 20 years, you are going to have two people paying in for every one taking out instead of seven paying in. I did not mean to get off on that other thing.

What are you going to do now on this business of revoking for instant health, it is called? Do you have spies follow retirees around, or do you have fellows come in every quarter for a physical or what? How are you going to tell that I am not just sitting there watching the boob tube in perfect health? If I tell you that I have got a bad back, I am sick and every time you ring the doorbell, I crawl to the door? But I do a pretty good jig when the door is closed and the shades are down?

MONITORING DISABILITIES

Mr. BARRY. Well, I think one way, Congressman McKinney—

Mr. McKINNEY. Monitoring reinforcement, it is called in official language.

Mr. BARRY. To get at this would maybe be to have annual health exams. That is one way to sort of look at it. The Police Department now has a casualty unit within it where it sort of goes around and sees what is going on. I guess they are taking advantage of the rumor mill when somebody is alleged to be working some place and they are not supposed to be working. My feeling is that if you make a system that is just and equitable, you do not worry about what happens to it after people get through it. I think if people knew they can come there, it is going to be fair, that they cannot come just to get off and get out, I think eventually you are not going to have these stringent kinds of post looks at it because the system will cut down on those who get out of it before. That is just one answer to it.

In the past, Mr. McKinney, in 1969, 99 percent of the people were retiring on disability, and I would say probably 65 percent of them were retired on the aggravated injury part of it. And because that income was tax-free, you did have some people, I think, that took advantage of the law and, therefore, you had to try to figure out what you do with them. Once you make it equitable, and this bill comes along, I do not think we are going to have the great number of—for instance, in 1978, we only had 116 people, about, retiring on the entire force so we were not talking about thousands of people.

Mr. McKINNEY. That is OK. I did not want to bring it out as a problem. I always used to say, if you have the money to go to the movies, the best show in town is to go to the courthouse and watch them come in, striding along, and watch them crawl to the courtroom and crawl back out the front door and then run to the subway.

Mr. BARRY. My proposals certainly are expected in the sense that always on the part of the executive and on the part of the taxpayers?

representative, which I represent, who want to be more stringent on some of the employee unions—that is a normal tug of war which goes on. I understand it, and I appreciate it. I just feel compelled, though, to give our views in this way and to represent the taxpayers in this city about what we think. It does not mean that we are going to go off and not support the bill if it is not included.

Mr. McKINNEY. I will turn back to counsel in a second here who knows a great deal more than I do. I just want to say that I agree with your comments, Mayor, on the funding. I think it is the Federal Government's responsibility. I think you are well aware that both the people you are looking at had to swallow very hard to accept the formula of the bill that finally got passed. We thought it was unfair and unjust, but the President even vetoed that. So I would not spend any sleepless nights hoping for anything better. I am wondering how ours truly up here can even get what we got last year through a Congress that yesterday, in its astute wisdom, decided there was no more need for countercyclical aid in this world.

RETIREMENT AT AGES 50 OR 60

The CHAIRMAN. I thank my colleague. Before I yield to council, if they have any questions, I have a couple of questions with point 3 and 4, but first, I think that your response to our questions, Mr. Mayor, is an excellent response regarding point 1 and 2 on page 5, current employees, and that is if we have in the bill a statement that you can cut people off at age 50, why not age 60? And I guess the only other question I would have, and I would like to get your comment on the record, is this: Our thought, is that a person returning at 50 still has a number of years before them. At 60, you have a much different situation. The person is right up against retirement anyway, and it would seem to me that it makes sense and one can justify bringing a person back at age 50 because they may have 10, 12, 15 years that one can work. But what about at age 60? It seems to me that we may be pressing it at that other limit. If you can just give us for the record what your thoughts are with respect to that notion, then we can go onto these other points.

Mr. BARRY. Mr. Chairman, again, when one retires—particularly his or her benefits are lower than their actual salary would be. I realize under the present tax laws disability retirements are tax-exempt, but I can sense a situation where a person—well, again, I think the basic philosophy about retirement is to help those who are disabled. And, once you are no longer disabled, I think you have got to take your lumps with the system. And also, they do not have to come back at age 60. They can then be entitled to a service retirement pension at age 55, so they don't always have to physically come back. You have got to recalculate what you would get, and do it in a different formula.

At any rate, that formula will never take you below 50 percent. So I do not have the actual examples of the money here, but I think the concept that retirements are to help people who have been disabled. When they are no longer disabled, you have missed your shot in the system, but you have also gotten benefits, too. I do not have my CPA with me right here, but I do know that it is better to get a tax-free

income of \$18,000 then get a tax-imposed income of \$28,000. I mean, I pay my own taxes. I know that much about it. And so you have gotten benefits from the system just in terms of your income breaks that you get from being disabled, and not having to pay income taxes on that money. So I think it is a fair balance.

RECOVERED DISABILITY ANNUITANTS

The CHAIRMAN. On point 3, where you indicate that under current law, a disabled pensioner who is medically recovered or exceeds the income limit continues to draw disability benefits for 1 year after the determination is made. I understand the thrust of that recommendation. So I guess, just for the record, I would like to know, can the city move quickly enough administratively to cut off benefits from recovered disability annuitants without some kind of grace period?

Mr. BARRY. Mr. Chairman, I believe very strongly that once administrative appeals are exhausted, you can then move to do it. I indicate that we want to revoke those after ascertaining medical recovery, there are some procedures for that, too. You cannot just arbitrarily say, "You are now well. Go back to work." There are procedures that protect people's rights, and I believe in those rights.

But once that determination has been made, and those procedures have been exhausted, at that point we ought to be able to do it. It is ironical that you make the determination about something and then you wait for a year to begin to do it. So the answer is yes, we can administratively move to do it. We can programmatically move to do it, too, to bring people back to the work force.

PERCENTAGE DISABILITY BENEFITS

The CHAIRMAN. Now I would like to move to my last question. What benefits would flow from these additional procedures that you outline in recommendation No. 4, to permit the city to determine the percentage of disability of every current employee presented for disability retirement to the Police and Fire Retirement Board, although current employees found to be disabled would continue to receive the same benefits now available? What benefits flow from adding these additional procedures?

Mr. BARRY. Mr. O'Brien will go into this, Mr. Chairman.

DUAL DISABILITY PROGRAM

Mr. O'BRIEN. Under H.R. 3560, we would have a dual-disability program, Mr. Chairman. Current employees would go through the present process of an all or nothing determination. New employees would go through the partial disability determination process, which is more complicated and gets into a lot of other areas. So you have got a dual system, and I think the Mayor is saying there are some equity issues that might be raised in a dual-system where two employees injured, perhaps even in the same incident, but one happened to be a current employee and the other happened to be a new-hire under the law, and yet they have got to go two separate disability routes in order to determine what benefit they get and so forth.

So I think in terms of just equity—from an equity standpoint—that is a benefit to be gained. I think going beyond that, though, to the real purpose of pension reform legislation in the District of Columbia, apart from the financing side, to deal with the question of disability abuse that has been raised by many, including this committee, we think that the partial disability process that a current employee would go through would provide a mechanism for determining whether, in fact, abuse exists. We do not concede that, in the recent history, that abuses are continuing. We think we have this program under good control. We think we are doing well, and we think more will be done under the Mayor's administration.

But by putting current employees through the process of determining the partial disability, we will know whether abuses are existing. We will know whether employees are coming through with a 25-percent or 10-percent disability, or whether they are coming in with serious disabilities. And so I think the information that would be provided here would give the Congress, would give the Mayor, in the first instance, and all others—the Congress, the executive branch of the Federal Government, and the public at large with some basic information on what is happening out there with the disability program. And I think it is in that context that this partial disability determination process, while it would not affect the benefit, it would give everyone the same basic information on what is happening.

Mr. BARRY. Mr. Chairman, on the other side of that, too, is that because there is a perception in the minds of the public that there is a great amount of fault and abuse in this system—I can understand how that perception is perpetuated when the public reads that a fire chief or a police chief retires on disability, and they don't know how that happened. Nothing happened dramatic in their life to do it. I think, on the other side of it is, again, I think from the employee union's point of view is that, for once and for all, it would demonstrate that people are legitimately taking advantage of the system.

Second, Mr. Chairman, we are faced now with a situation where—and I am going to get into how many—because we have sort of set the tone for cutting down on these disabilities, we have a grey area. These are people in the present system who often work, who have neither been ruled disabled or able to work, and they just sort of float in no-person's land. They are drawing sick benefits. In some instances, they are out of sick leave, and they are just drawing nothing.

Again, I think this would give me and give the city a better handle on demonstrating that this system is working fairly for all of the persons concerned. We ought to face it, Mr. Chairman, it is the nature of some human beings—and if there is law there where people can move through it, they will move through it. But our emphasis is on the positive aspect of retirement, not on the negative. We are not emphasizing the great abuses. We are trying to say that we want equity. We want our employees to feel that when employee "A" goes before this situation, he will get the same justice as employee "B" and that there is not going to be any way that "B" can out "A," to take advantages of it and "A" gets caught in it.

So we think this just gives us additional information to demonstrate clearly the system is working.

The CHAIRMAN. Counsel?

TREASURY DATA

Mr. BRAUER. I just have a technical request, Mr. Mayor. In talking to the Treasury today, they have indicated that they have not completely received the entire amount of current data on active and retired employees that they need to be able to support this committee and the committee in the Senate. And it has been indicated to them there is some delay in providing that. Fortunately for us on where we are now—unfortunately in the sense that the dollar figures are a political compromise, it should not hold us up, but in order for us to support the record, we need the additional data to the Treasury as soon as possible.

Mr. BARRY. Mr. Chairman, we will get that. We get ourselves into a situation where we had asked Treasury almost 4 or 5 weeks ago to get busy doing this. We had to do a little calling around, you know, to OMB to get it filed, and all of a sudden they now say, you know, they are ready to go so we will get that information to them. They have not asked us, as far as I know. They might have asked somebody else and ask us for that, so we will get that information to them.

The CHAIRMAN. Thank you. The Chair would like to yield such time as it may consume to the Counsel for the Minority.

CITY'S LIABILITY FOR UNFUNDED LIABILITY

Mr. SINGLETON. Thank you, Mr. Chairman. Mr. Mayor, there is no doubt that this unfunded liability that has been created—this unfunded pension fund—poses a real problem for the city. And I was wondering if you could tell us for the record what the city's current fiscal capacity might be to meet this unfunded liability?

Mr. BARRY. For the record, if we had to meet that unfunded liability today, we would not have the dollars available to do it. Again, without getting into the fine parts of how much we are talking about, but we are at least at the \$1 billion level, at least. And our budget—our total budget—is only \$1.3 billion appropriated moneys for the District. But more important, Mr. Counsel, is when we go to the bond market, we are looking for the first time to try to get at least a double-A and hopefully a triple-A rating and when this big unfunded liability shows up on our balance sheet, you can rest assured that after New York City and Cleveland and a few others, the bond people are going to be looking critically and carefully at our asset and our balance sheet. And that is even more of a serious problem than the immediate money problem because we know that everybody is not going to retire tomorrow morning, but it is an accounting process that bothers us a great deal. But also the money is not there to do it.

And, incidentally, it has been my understanding from corporation counsel and others that, even though the law says that people are supposed to get these benefits, if the city runs out of money and cannot pay them, there are no legal obligations to do so, which, again, I think is wrong. I think that if we make the obligation, we ought to do it. But if we run out of money, we are under no legal obligation to pay the pension benefits to the persons who are now receiving them.

Mr. SINGLETON. Well, you have already anticipated and answered my second question which was going to relate to the ability—

Mr. BARRY. I haven't seen this. I am just trying to be clairvoyant.

DISTRICT BONDS

Mr. SINGLETON. Exactly. Once the Audit Commission finishes its work and produces an audit for—rather, an audit is available for the city that is a favorable one, how soon do you think the city will be able to go to the bond market?

Mr. BARRY. We think the Financial Oversight Commission requires that we begin our first audit October 1 of this year, which is the beginning of fiscal year 1980. We are on track with our direction. I guess we would be thinking of fiscal year 1982 in terms of—again, that is because our fiscal year 1981 budget will be in the city's process this spring and summer and will be in the council in the fall, and it will be before the Congress next year in 1981, so our 1981 budget will be passed by the Congress hopefully early next year so 1982 will be the ideal time for us to go out into the market because we will have that much time to look at what our capital needs will be.

Mr. SINGLETON. Thank you, Mr. Mayor. No more questions, Mr. Chairman, thank you.

LEGISLATIVE SITUATION

The CHAIRMAN. Thank you very much. Mr. Mayor, we appreciate your testimony, and we appreciate the presence of your distinguished staff. I would like to first indicate to you that in response to your statement that it is the position of your administration that you would like to see this legislation passed in this session of the 96th Congress, I am inclined to agree with you, and we all are aware of the fact that there are factors which may or may not preclude our ability to do that. But I would think that, given the distinguished array of Members of Congress who are the close sponsors of this legislation that will act as a framework for what we do in the 96th Congress, I would like to believe that I think it can pass if we have the same enthusiastic diligence from the members of the employee groups who worked very effectively with us in helping us get this legislation through the House. I think that we can do it.

We had tremendous cooperation from Senator Eagleton and his staff and other Members on the Senate side, and I would like to believe that we can have that same cooperation again. What my hope is that in some way, we can communicate beyond Capitol Hill so that we can avert what I really consider, along with my colleague, a major catastrophe—last time, when the administration vetoed this bill with totally inappropriate information, and we wouldn't have to be going back through this process as we are doing now had the President been operating on updated and relevant information.

ACTION IMPERATIVE NOW

So it is my hope that we will bring the administration along with us. We have indication that the administration wants to work with us. The question is, at what level and whether that makes sense, and whether they can help us get it through in this Congress, and these are all questions that, at this moment, I cannot answer. But I am in agreement with you, and, again that is why we opened these hearings because we think it is important to keep open the potential for getting this legislation passed in this session of Congress. And so we felt that if we didn't begin to hold hearings now before May 15, that we might

preclude the possibility of being able to do it, so we appreciate your involvement and we will take under advisement all of your recommendations for making changes in H.R. 3560, and we will continue to work with your office and work with your staff to see if we can arrive at a piece of legislation that all of us can support.

Mr. BARRY. Mr. Chairman, let me just indicate my strong desire and strong support for your position, that we ought to go forward now. About a week or so after I took over as mayor, my staff started talking to people at OMB. I met with the President of the United States, and I indicated that pensions were high on my list. We met with Mr. McIntire, and I am a little disturbed that there seemed to be some feeling over there that we ought to wait. After my conversation in the early part of the week, I have been making some exploratory calls and trying to see where we are, and I have been trying to make them at very high levels so we could at least get some focus on this situation.

We have to see. Maybe we will have to urge you and urge your colleagues to go it alone. We are appearing tomorrow morning before Senator Eagleton's committee on the same subject. I think he has determined that we ought to try and go ahead in this session of Congress. We know that next year, with the elections coming up and a lot of other distractions, we may not be able to focus on this.

The CHAIRMAN. Plus there will be substantial cost increases.

Mr. BARRY. That is right. Each year as it goes on, it costs us more and more money, and it is just a matter of delaying what will ultimately happen anyway. So I certainly appreciate your enthusiasm and your strong support and your decision to hold these hearings, and taking the time out to focus on this very important subject. So thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very, very much.

Mr. BARRY. May I ask just one other thing, too, so there will be no question about it. I appreciate the strong support of our employee unions in this matter. Our fine police and teachers' unions have been very strong. It so happens on a few points I raised today, we may have some differences, but it does not shake my undying commitment to work with them, and they have been very helpful to me as mayor of the District of Columbia, and I intend to keep that relationship going with them.

The CHAIRMAN. Thank you very much. Our next witness is Mr. Jim Christian, counsel for the District of Columbia City Council. Mr. Christian, you may proceed in any fashion that you choose. We would appreciate it if you would also introduce the gentlemen accompanying you to the members of the committee. We welcome you.

STATEMENT OF JAMES CHRISTIAN, ESQUIRE, ON BEHALF OF HON. ARRINGTON DIXON, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. CHRISTIAN. Thank you very much, Mr. Chairman. It is my pleasure to appear before you this afternoon. I am here representing the Chairman of the Council of the District of Columbia, the Hon. Arrington Dixon, and I am accompanied by Mr. John Brown, the executive assistant to the Chairman.

The CHAIRMAN. We would like to welcome you.

Mr. CHRISTIAN. Thank you. I am going to take somewhat poetic license with the chairman's statement. We have, I think, conveyed to you the actual written text of the statement, and we do apologize for having transported it up to you somewhat late. But in view of the pressing sort of responses the chairman has had to give to a number of items in the last couple of days, we had some problems clearing in-house some of the content of the statement. Consequently, we do offer that apology.

Mr. Chairman, Mr. McKinney, ranking member of the committee, certainly we want to thank you for providing us the opportunity to commit or to comment on H.R. 3560 and present our comments for the record. This bill, 3560, is essentially the same as H.R. 6536, which was introduced and passed by the House and Senate in the 95th Congress, and subsequently vetoed by the President, and would establish an actuarially sound basis for finance and retirement benefits for the District of Columbia police, firefighters, and teachers.

I am pleased that you, Mr. Chairman, decided to reintroduce this measure for the necessity of the legislation is beyond question, particularly if the District of Columbia is ever to exercise full home rule. Mr. Chairman and Mr. McKinney, we really intend to make our comments here very brief because the record is, we believe, replete with ample testimony, reports and other documentation which present the analytical justification for H.R. 3560.

IMPORTANCE OF LEGISLATION TO THE DISTRICT

However, there are two points which I intend to emphasize: One, the importance of this bill for the District Government; and two, the Federal contribution to the retirement funds. Absence of this legislation would compel the District Government to assume an undue financial burden which it had no part in initiating. Our plea is predicated primarily, if not solely, on the fact that the current pension program was drafted and implemented before limited self-government was granted to the District of Columbia. The end result of this fact is that a long-term obligation has been created without the corresponding funding necessary to enable the retirement programs to operate independently from other programmatic resources.

H.R. 3560

Unlike municipal officials that may try for Federal assistance to relieve them of fiscal crises created by themselves or their predecessors, I appear before you to seek your endorsement and support of legislation which is, indeed, an appropriate extension of earlier congressional actions. Opponents of H.R. 3560 would argue that its prime purpose is to have the Federal Government subsidize the District's operating expenses.

The crux of H.R. 3560, however, is that it would provide a greater degree of managerial and fiscal control over the retirement funds of the affected entities—the firemen, police, and teachers. This would be accomplished through: (1) the establishment of separate retirement funds for the police officers, firefighters, teachers, and judges; (2) the establishment of a retirement board with responsibility for managing

these funds; (3) requiring that these funds be managed on an actuarially sound basis; and (4) require that the retirement board comply with the reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974.

These requirements serve the public's best interest by setting certain specific management standards to which the city must be held accountable. These steps would also help assure taxpayers that the dollars are managed carefully and properly.

UNFUNDED LIABILITY

As I stated earlier, Mr. Chairman, the present pension program and its corresponding funding needs were created before District officials acquired the authority to administer even part of the retirement program.

To require the city now to assume a disproportionate share of this obligation, I believe, cannot be justified. Similarly, I cannot recommend that the Federal Government assume the entire responsibility. It seems that \$2.1 billion recommended by the Senate previously for H.R. 6536 was not an unreasonable amount. However, I recognize the political realities associated with that amount gaining approval. Even here in the House of Representatives, that appears unlikely.

Nevertheless, I believe it most closely reflects that portion of the unfunded liability which should be borne by the Federal Government. Hence, through past committee conference and the Presidential veto of H.R. 6536, we have been informed of the authorization level that is most likely to meet with final approval. I would still strongly urge you to consider an amount of no less than \$1.7 billion. The rationale for this amount would protect future taxpayers from assuming a greater contribution for services rendered during the period of time in which they exercised no control.

Mr. Chairman, it has been estimated that without the actuarially sound method of financing which H.R. 3560 proposes, the District of Columbia's obligations for retirement funds will surpass its operating expenses for police and fire protection in the year 2003. That, Mr. Chairman, and, Mr. McKinney, is just an untenable posture for the District of Columbia to be in. I therefore strongly urge your favorable consideration of 3560, and particularly to provide an adequate and equitable Federal contribution to the retirement funds for police officers, teachers, and judges of the District of Columbia. Thank you, Mr. Chairman, that concludes Chairman Dixon's statement.

The CHAIRMAN. I would like to thank you very much, Mr. Christian and Mr. Brown. The Chair has no questions at this point. Your statement is very clear and very eloquent and very pointed, and we understand precisely where you are with respect to what we are trying to accomplish in this legislation. I would like to now yield to my distinguished colleague, Mr. McKinney.

Mr. McKINNEY. I have no questions, Chairman. It is nice to see you, but it seems strange to be looking at you over there instead of back here. That is an eloquent statement, and I think you have sat through many of these and you could recite them in your sleep. Thank you very much.

The CHAIRMAN. I was going to say the very same thing. I wish you well in your new capacity.

Mr. CHRISTIAN. Thank you very much.

The CHAIRMAN. Mr. Christian and Mr. Brown, we thank you very much for your testimony. Thank you very much for coming.

[The prepared statement of Chairman Dixon, follows:]

STATEMENT OF HON. ARRINGTON DIXON, COUNCIL OF THE DISTRICT OF COLUMBIA

Thank you, Mr. Chairman, and members of the Subcommittee on Fiscal Affairs and Health, for inviting me to provide, for the record, my thoughts on H.R. 3560—the District of Columbia Retirement Reform Act.

This bill which is essentially the same as H.R. 6536 [which was introduced and passed by both House and Senate in the 95th Congress and subsequently vetoed by the President] would establish an actuarially sound basis for financing retirement benefits for police, fire fighters, teachers, and judges. I am pleased that Mr. Dellums decided to reintroduce it; for the necessity of this legislation is beyond question, particularly, if the District government is to ever exercise full home rule.

Mr. Chairman, and members of the subcommittee, my comments today will be intentionally very brief. The record, I believe, is replete with ample testimony, reports, and other documentation which present the analytical justification for this bill (H.R. 3560). However, there are two points I intend to emphasize:

1. The importance of this bill for the district government; and
2. The Federal contribution to the retirement funds.

Absence of this legislation would compel the District government to assume an undue financial burden which it had no part in initiating. Our plea is predicated primarily, if not solely, on the fact that the current pension program was drafted before self government came into existence. The net result is that a long term obligation has been created without the corresponding funding necessary to enable the retirement programs to operate independently from other programmatic resources. Unlike municipal officials that may cry for Federal assistance to relieve them of fiscal crises, created by themselves or their predecessors, I appear before you to seek your endorsement and support of legislation which is, indeed, an appropriate extension of earlier congressional actions.

Opponents of H.R. 3560, would argue that its prime purpose is to have the Federal government subsidize the district's operating expenses. The crux of H.R. 3560 is that it would provide a greater degree of managerial and fiscal control over the retirement funds of the affected parties. This would be accomplished through:

1. The establishment of separate retirement funds for police officers and fire fighters, for teachers, and for judges;
2. The establishment of a retirement board with responsibility for managing these funds;
3. Requiring that these funds be managed on an actuarially sound basis; and
4. Requiring that the retirement board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974.

These requirements serve the public's best interest by setting certain, specific management standards to which the city must be held accountable. These steps will help assure taxpayers that their dollars are managed carefully and properly.

UNFUNDED LIABILITY

As I stated earlier, the present pension program and its corresponding funding needs were created before district officials acquired the authority to administer even part of the retirement program. To require the city now to assume a disproportionate share of this obligation, I believe, lacks any reasonable justification.

Similarly, I cannot recommend that the Federal government assume the entire liability. It seems that \$2.1 billion recommended by the Senate for H.R. 6536 was not an unreasonable amount. However, I recognize the realities associated with that amount gaining approval, even here in the House of Representatives, that appears unlikely. Nevertheless, I believe it most closely reflects that portion of the unfunded liability which should be borne by the Federal Government.

Since, through past committee conference and the presidential veto on H.R. 6536, we have been informed of the authorization level that is most likely to meet with final approval, I would strongly urge you to consider an amount of no less than \$1.7 billion. The rationale for this is that this amount would protect future taxpayers from assuming a greater contribution for services rendered during a period of time, in which they exercised no control.

Mr. Chairman, it has been estimated that without the actuarially sound method of financing which H.R. 3560 proposes, the District of Columbia's obligations for Retirement Funds will surpass its operating expenses for police and fire protection in the year 2003.

I therefore strongly urge your favorable consideration of H.R. 3560 and, particularly, an adequate and equitable federal contribution to the retirement funds for police officers, teachers, and judges of \$1.7 billion.

The CHAIRMAN. Our next witness is Mr. Gary Gilliam, government actuary, Office of Government Financing.

STATEMENT OF GARY GILLIAM, GOVERNMENT ACTUARY, OFFICE OF GOVERNMENT FINANCING, U.S. TREASURY

Mr. GILLIAM. Mr. Chairman, with me today is Mrs. Paula Farrell, who is a mathematician.

The CHAIRMAN. We welcome you both, and you may proceed in any fashion you choose. We have your prepared testimony. You may read it into the record or, if you wish, you may include it into the record by unanimous consent and you may summarize in any way you choose.

Mr. GILLIAM. I think I prefer to have you enter it into the record, and I will summarize it very briefly.

The CHAIRMAN. Without objection, it is so ordered and the gentleman may proceed.

[The prepared statement of Mr. Gilliam follows:]

STATEMENT OF GARY E. GILLIAM, GOVERNMENT ACTUARY, OFFICE OF THE SECRETARY OF THE TREASURY

Mr. Chairman and members of the committee: I appreciate your invitation to appear today and discuss calculations we have made in order to demonstrate the financial effects of H.R. 3560. As you know the Treasury Department has statutory responsibility for making actuarial valuations of the District Teacher's and Judge's Systems and has traditionally provided similar services for the D.C. Fire and Police System.

I would like to present our latest estimates of the present and projected liabilities of the D.C. Retirement Systems under the present pay-as-you-go system of financing and under the method of financing proposed in H.R. 3560. Table 1 summarizes these results for the Police and Fire System, Table 2 for the Teachers System, and Table 3 for the Judge's System. These tables also contain the projected District payments as a percentage of the covered payroll, which I believe to be a good estimator of the yearly burden imposed on the District under each of these methods of financing. Please note that the unfunded liabilities of these pension systems will continue to grow until annual contributions are made which are at least as large as the normal cost of the system plus interest on the unfunded accrued liability.

Table 4 contains our present estimates of the 25 year amortization payments required to pay off that portion of the liabilities attributable to members who were retired as of the effective date of home rule. These numbers do not give a good indication of the cost of delaying the funding of these systems because they relate to a closed group of people who have already retired. If financing is delayed until all of these people are dead, the liability for this group and the corresponding Federal contribution will become zero. These numbers differ from those presently included in H.R. 3560 for several reasons: they are based on

a different set of economic assumptions; annuity increases have been larger than those originally estimated; and they are based on later data than those used in the earlier studies.

Table 5 summarizes the entry age normal costs of the systems and contains our estimate of the reduction in normal cost attributable to the benefit changes in H.R. 3650.

As you requested, we have developed a detailed model for projecting the financing of these systems under the proposed method of funding.

I will be happy to try to answer any questions which the committee may have and to do what I can to assist the committee with its studies.

TABLE 1.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED D.C. CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE D.C. FIRE AND POLICE RETIREMENT SYSTEM

[Dollar amounts are in millions]

Date	Method of financing					
	Present (pay-as-you-go)		H.R. 3650		H.R. 3650 (less Federal contribution)	
	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll
Oct. 1978.....	\$1,566.9	49.2	\$979.2	45.2	\$1,553.3	54.0
Oct. 1979.....	1,682.5	50.6	1,052.9	46.6	1,657.3	60.0
Oct. 1980.....	1,804.8	51.9	1,129.9	47.9	1,760.6	65.8
Oct. 1985.....	2,529.5	59.3	1,565.6	55.3	2,274.1	76.9
Oct. 1990.....	3,461.1	69.4	2,063.0	66.9	2,885.4	72.9
Oct. 1995.....	4,613.2	80.5	2,565.8	76.5	3,697.4	76.5
Oct. 1, 2000.....	6,018.1	87.6	3,040.4	80.6	4,677.6	80.6
Oct. 1, 2005.....	7,767.2	90.5	3,315.8	99.0	5,260.1	132.9
Oct. 1, 2010.....	9,972.9	92.6	3,315.8	86.2	5,260.1	112.6
Oct. 1, 2015.....	12,744.2	94.7	3,315.8	76.5	5,260.1	97.3
Oct. 1, 2020.....	16,211.7	96.2	3,315.8	69.0	5,260.1	85.3
Oct. 1, 2025.....	20,572.8	96.1	3,315.8	63.0	5,260.1	75.8

Economic assumptions: 7 percent interest, 5 percent annual wage increases, 5 percent annual annuity increases.

TABLE 2.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED DISTRICT OF COLUMBIA CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE DISTRICT OF COLUMBIA TEACHERS RETIREMENT SYSTEM

[Dollar amounts are in millions]

Date	Method of financing					
	Present (pay-as-you-go)		H.R. 3650		H.R. 3650 (less Federal contribution)	
	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll
Oct. 1, 1978.....	\$798.3	15.3	\$617.6	19.8	\$798.3	19.8
Oct. 1, 1979.....	860.6	15.5	655.0	24.5	848.4	24.5
Oct. 1, 1980.....	926.9	15.7	686.7	27.5	893.6	28.8
Oct. 1, 1985.....	1,330.9	16.7	840.9	25.8	1,076.1	30.7
Oct. 1, 1990.....	1,878.5	18.5	1,062.4	18.5	1,325.0	21.5
Oct. 1, 1995.....	2,601.3	21.2	1,430.7	21.2	1,787.0	21.2
Oct. 1, 2000.....	3,519.4	26.0	1,851.7	26.0	2,351.4	26.0
Oct. 1, 2005.....	4,587.6	33.8	2,091.3	41.4	2,703.4	48.7
Oct. 1, 2010.....	5,746.7	37.8	2,091.3	36.4	2,703.4	42.2
Oct. 1, 2015.....	7,089.3	37.6	2,091.3	32.0	2,703.4	36.5
Oct. 1, 2020.....	8,743.0	35.9	2,091.3	28.5	2,703.4	32.0
Oct. 1, 2025.....	10,859.7	33.6	2,091.3	25.8	2,703.4	28.5

Economic assumptions: 7 percent interest, 5 percent annual wage increase, 5 percent annual annuity increase.

TABLE 3.—PROJECTED UNFUNDED ACCRUED LIABILITIES AND REQUIRED DISTRICT OF COLUMBIA CONTRIBUTIONS AS A PERCENTAGE OF PAYROLL FOR THE DISTRICT OF COLUMBIA JUDGES RETIREMENT SYSTEM

[Dollar amounts are in millions]

Date	Method of financing					
	Present (pay-as-you-go)		H.R. 3650		H.R. 3650 (less Federal contribution)	
	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll	Unfunded liability	District contribution as a percent of payroll
Oct. 1, 1978.....	\$12.5	3.7	\$9.9	2.5	\$12.5	2.5
Oct. 1, 1979.....	14.6	3.4	11.7	6.5	14.5	6.5
Oct. 1, 1980.....	16.8	6.7	13.6	12.0	16.5	12.0
Oct. 1, 1985.....	29.3	25.6	21.6	55.4	25.7	55.4
Oct. 1, 1990.....	44.9	34.7	23.7	68.7	28.9	74.0
Oct. 1, 1995.....	65.5	42.9	26.6	53.2	32.3	57.3
Oct. 1, 2000.....	89.3	61.3	32.8	60.6	39.8	60.6
Oct. 1, 2005.....	112.9	70.6	33.6	63.8	42.3	69.6
Oct. 1, 2010.....	140.4	70.2	33.6	59.0	42.3	63.5
Oct. 1, 2015.....	170.8	76.0	33.6	55.2	42.3	58.8
Oct. 1, 2020.....	201.8	76.5	33.6	52.3	42.3	55.1
Oct. 1, 2025.....	237.2	73.5	33.6	50.0	42.3	52.1

Economic assumptions: 7 percent interest, 5 percent annual wage increases, 5 percent annual annuity increases.

TABLE 4.—25 YEAR AMORTIZATION PAYMENTS REQUIRED TO LIQUIDATE THE LIABILITIES FOR THOSE RETIRED AS OF JAN. 2, 1975 AND STILL ON THE ROLLS SEPT. 30, 1977

[In millions of dollars]

	Police and fire	Teachers
Oct. 1, 1977.....	62.988	24.188
Oct. 1, 1978.....	63.203	23.702
Oct. 1, 1979.....	63.339	23.162

Economic assumptions: 7 percent, 5 percent annual wage and annuity increases.

TABLE 5.—Gross entry age normal costs as a percent of payroll

	Percent
Fire and police:	
Present system.....	61.4
New Employees under H.R. 3560.....	48.1
Present employees under H.R. 3560.....	57.0
Teachers.....	23.7
Judges.....	42.1

Source: Office of the Secretary of the Treasury, Office of Government Financing, May 2, 1979.

Economic assumptions: 7 percent interest, 5 percent annual pay and annuity increases.

Mr. GILLIAM. First, if I may, I would like to comment on one item. In the past, we have had trouble in getting data from the District and unfortunately, this limits us somewhat in what we are able to do at the moment. At the present time, the District is making a very determined effort to remedy this situation, and I am very grateful for the help they have given us.

Basically, what I have done is to prepare a series of five tables which indicate how the unfunded liabilities will grow with and without H.R. 3650, and with and without the Federal contributions. I have estimated a series of amortization payments for the liabilities for people who are presently in the system, and who retired at the time of home rule. I have indicated what we think will happen to the entry-age normal cost as a result of the changes made in H.R. 3560.

Basically, the three tables—table I is for the police and fire system, table II is for the teacher system, and table III is for the judges' system—include our estimates of the District's contribution as a percentage of payroll—I guess over approximately the next 50 years, and I think this is probably the best indication we can give as to the burden the District is bearing and will bear because of the financing or lack of financing and the changes which the proposed bill would make in the benefit spectrum. Basically, that is what I have prepared, and I would be happy if I could answer any questions you might have.

UNFUNDED LIABILITY

The CHAIRMAN. Yes, thank you. The first question is, How much has the unfunded liability increased, given your analysis of the data, from last year, and can you tell us why that increase is there?

Mr. GILLIAM. It appears it has increased approximately \$90 million for the police and fire system; around \$63 million for the teachers, and approximately \$1 million for the judges. This increase has come about because contributions to these systems have been less than the level which would be required by the normal cost plus interest on the unfunded liability. If the normal costs were paid every year and if interest on the unfunded liability were paid each year, the unfunded liability would stabilize, and it would no longer grow. Contributions have been below this level, and the liability has increased as a result.

COST INCREASES

The CHAIRMAN. Given that, then, how much has the cost of last year's bill increased and can you give us a reason why?

Mr. GILLIAM. I guess we have a little bit of a problem with how you define cost of last year's bill. It has not increased significantly and in terms of the Federal payment. In other words, our estimate of the Federal payment last year does not differ significantly from our estimate of the Federal payment this year. By virtue of the delay, the cost to the District is increased and, at the moment, I can't demonstrate that on a year-by-year basis. Let's see, the unfunded liabilities have grown, of course, over the past year and the interest on the unfunded liability is the determining factor in what the District will ultimately have to pay, so I would say—OK, let me—

Table IV in the statement I presented lists the 25-year Federal payments for the police and fire system, and for the teachers' system as we would have estimated them October 1, 1977, October 1, 1978, and October 1979. These are increasing slightly because of inflation, primarily because of inflation. These payments are higher than the corresponding payments in last year's bill. We are using a different set of economic assumptions. We are assuming 5-percent wage and annuity increases and 7-percent interest. We are using—these numbers differ from those presently included in those in H.R. 3650 for a number of reasons.

The annuity increases have been larger than those originally estimated, and they are based on later data than those used in the earlier studies.

IMPACT OF DELAY

The CHAIRMAN. Let me ask you just one other question. What will another year's delay do to the unfunded liability to the cost of our proposal?

Mr. GILLIAM. Well, the unfunded liabilities, as I said, will increase. I expect that they will increase by approximately \$180 million for the system as a whole; \$115.6, I would say, for police and fire; \$62 for the teachers and \$2.1 for the judges. The Federal share will not increase significantly because of the way it is defined.

The annuity increases due to inflation are offset in the decreases which are coming about by virtue of the fact that the people in this group are dying off, and by that, I am referring to the retired members who retired as of the Home Rule Act.

The CHAIRMAN. Thank you very much. Mr. McKinney?

Mr. McKINNEY. No questions.

The CHAIRMAN. Counsel for the majority is recognized for such time as he may consume.

ACTUARIAL ASSUMPTION

Mr. BRAUER. Mr. Chairman, I just want to ask one question for the record. You had alluded to some economic factors that were in the assumption behind the actuarial model. Just for the record, are the actuarial assumptions in the projection occurring at future trends reasonable?

Mr. GILLIAM. To the best of my knowledge, yes, I believe they are.

Mr. BRAUER. Thank you.

The CHAIRMAN. If there are no further questions, we would like to thank you both very much for coming before the committee, and we appreciate your contribution to these hearings.

Mr. GILLIAM. Thank you very much.

The CHAIRMAN. Next we have a panel of retired groups. First the Chair would call upon Miss Elizabeth Griffith, cochairperson, legislative committee, District of Columbia Retired Teachers' Association; Mr. Webster Frye, president, District of Columbia Retired Teachers' Association; and Mr. John Sullivan, president, District of Columbia Retired Policemen's Association.

The Chair would like to welcome all three of you. In the interest of time, it is my hope, if you could submit your formal statements for the record and summarize your testimony, we could then move quickly to the questions.

Mr. SULLIVAN. We will be happy to do so, Mr. Chairman, as far as the association of retired policemen.

The CHAIRMAN. Thank you very much. We appreciate your presence. And as each of you proceed, identify yourselves for the record.

Mr. SULLIVAN. Ladies first.

STATEMENT OF ELIZABETH GRIFFITH, COCHAIRPERSON, LEGISLATIVE COMMITTEE, DISTRICT OF COLUMBIA RETIRED TEACHERS' ASSOCIATION

Miss GRIFFITH. Congressman Dellums and Mr. McKinney, other members of the staff. Before I proceed, I would like to introduce to

you the president of the District of Columbia Retired Teachers' Association, Mrs. Frances R. Mitchell. If she would stand, so that you could recognize her.

The CHAIRMAN. We welcome you.

Miss GRIFFITH. And also Mr. E. Filmore Mitchell, who is the NRTA State director and the immediate past president of our association.

The CHAIRMAN. We welcome you as well.

Miss GRIFFITH. I am Elizabeth D. Griffith, cochairman of the Legislative Committee, District of Columbia Retired Teachers' Association.

Mrs. Roberta S. Barnes, cochairman of the Legislative Committee, District of Columbia Retired Teachers' Association, has assisted me in the preparation of this testimony on H.R. 3560 but was unable to be present today.

We speak for the retired teachers and school officers of the District of Columbia public schools and for their survivors. We thank you for inviting us to give our views on the District of Columbia Retirement Reform Act, H.R. 3560, and we wish to express our thanks and appreciation to you and your staffs for bringing this crucial legislation before the Congress early in the 96th session.

May I submit my testimony for the record completely, Mr. Chairman? And then I will comment briefly, summarizing it.

The CHAIRMAN. Without objection, so ordered, and you may proceed.

BACKGROUND OF RETIREMENTS

Miss GRIFFITH. We feel that the President was very ill-informed about the history of the retirement of District of Columbia employees. We would recommend that the OMB and others who are close to him be made acquainted with the legislative history as contained in "The Financing of the District of Columbia Police, Fireman, and Teachers Legislative System," legislative history which was prepared by the Library of Congress in its manual, which is March 18, 1976, serial No. S-8. We feel that the Congress of the United States has a contractual agreement with the teachers of this city, and this has been true since 1920 when the legislation first began at the Congress.

We also feel that the District of Columbia teachers have contributed from their salaries to the retirement fund and the same percentage of their earnings as have the Federal civil service employees who work for the District government and the Federal Government. And Congress has made the benefits for teachers comparable to the civil service for these very explicit reasons.

BOARD OF TRUSTEES

We feel that the Nelson report commissioned by the U.S. Congress has made recommendations to the Congress which your bill embodies and which we feel very urgently are needed to be put into practice; namely, the board of trustees. We would disagree with the Mayor in his statement submitted to us in identifying the vote which the retired police, firemen, and teachers would have on the board of trustees; namely, to only a half vote. We feel we should have a full vote because not only are we employees of the District government, but we also are taxpayers of the District government and we would not recommend

benefits for ourselves which would be overburdening taxwise. And we feel that for so long we have been undergoing a system where we did not have control over the management or the investment of our funds.

INVESTMENT OF FUNDS

I want to point out that when I talked to Mr. Tinsley, who was the head of the Civil Service Commission at Mr. Eagleton's hearing last year, he told us that the civil service retirement system had a Chairman and a committee which met monthly to invest the funds of the civil service retirement system to its best advantage. There has been no such committee for D.C. teachers' retirement funds prior to the Home Rule Act. At that time, Mayor Washington appointed Mr. Coppie, who was then head of the Budget and Finance Committee, to go ahead with the investment of these funds. We would point out that the liquidation of these funds may destroy the face value of them. And we would recommend that you exercise great care in the liquidation of that fund prior to—since they were just purchased within the last few years.

We also feel that we would want the Congress and the President to know that the Commissioners of the city apparently exercised no control over these D.C. teachers' funds because, according to the law, the Secretary of the Treasury had the right to hold and invest their funds. We found, when we investigated this system following home rule, that these duties had been delegated and that a clerk in the D.C. Accounting Office had the portfolio for the teacher's funds. She told us that her first important place was to see that there were enough funds, and her second was to see about the investment of these funds; \$40 million had been invested in flower bonds, which really was not investing these funds at the very best advantage for our teachers' retirement fund or for the District. So I feel that the President really has a dual role here because the Commissioners that the Presidents in various administrations had appointed had no check on this. We trusted the District government law and did not investigate until a later date. So I think that these are important facts that your committee should know.

And we certainly urge that this legislation be passed at the earliest possible moment. We will do everything we can to help you.

[The prepared statement of Miss Griffith follows:]

D.C.. RETIRED TEACHERS ASSOCIATION,
Washington, D.C., May 2, 1979.

Congressman RONALD V. DELLUMS,
Chairman, and Members of the Subcommittee on Fiscal Affairs and Health, Committee on the District of Columbia, House of Representatives, Washington, D.C.

GENTLEMEN: I am Elizabeth D. Griffith, Cochairman of the Legislative Committee, D.C. Retired Teachers Association. Mrs. Roberta S. Barnes, Cochairman of the Legislative Committee, D.C. Retired Teachers Association, has assisted me in the preparation of this testimony on H.R. 3560, but was unable to be present today. Mrs. Frances R. Mitchell is the President, D.C. Retired Teachers Association, and Mr. E. Fillmore Mitchell is the NRTA State Director and the Immediate Past President, D.C. Retired Teachers Association.

We speak for the retired teachers and school officers of the D.C. Public Schools and for their survivors. We thank you for inviting us to give our views on the District of Columbia Retirement Reform Act, H.R. 3560, and we wish to express

our thanks and appreciation to you and your staffs for bringing this crucial legislation before the Congress early in the 96th Session.

The D.C. Retired Teachers Association wishes to confine its remarks to the items common to the police officers', fire fighters', teachers', and judges' pension systems, and specifically to those sections dealing with the teachers' pension system. In our study of the provisions of the District of Columbia Retirement Reform Act, H.R. 3560, we urge and endorse each item which:

1. Establishes a partnership between the Federal Government and the D.C. Government to join in a plan to fund fully the pensions of 38 percent of the D.C. employees not covered by the Federal Civil Service System, namely, police, firemen, teachers, and judges.
2. Provides for the establishment of a Board of Trustees composed of equal representation for each of the four groups, including active and retired personnel. We want a voice in setting fiscal policy and management of our retirement program.
3. Requires actuarially sound procedures.
4. Grants the vesting of fiduciary responsibility in the Board of Trustees.
5. Makes provision for reporting and public disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).
6. States the amount and time of deposits for Federal and District payments into each separate fund to guarantee the financing of liabilities for retirement benefits enacted by Congress prior to Home Rule.
7. Continues the inclusion of the safeguards similar to those presently contained in the D.C. Teachers Retirement Act, namely:
 "If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such requirements."
8. Inserts "Restoration of Teachers' Annuities in the Event of Predeceased Beneficiaries."
9. Sets limitations on investment of Retirement Funds as expressed.
10. Includes the provision for "Interest on Teachers' Refunds and Deposits."
11. Continues to provide for Cost of Living Adjustments for retired teachers, similar to the formula for the Federal Civil Service System.
12. Sets limits for Teachers' Disability Annuities based on outside earned income.

Our deepest concern is that the D.C. Teachers Retirement Fund be adequately financed through the combined efforts of the Federal and District Governments. Most teachers on the retirement rolls are too elderly to be employed and are, therefore, dependent upon their pension checks being delivered to them promptly each month. The majority have no other source of income.

The Legislative History prepared by the Library of Congress, Congressional Research Service for the Committee on the District of Columbia, House of Representatives, Ninety-fourth Congress, Second Session, March 18, 1976, Serial No. S-8, gives the chronological order of the development of legislation for teacher retirement, and indicates that those laws were made solely by the U.S. Congress. Teachers feel that they have a contractual agreement with the members of Congress concerning their retirement benefits.

We believe that this 38 percent of the D.C. Government employees, not now covered by benefits, of the Federal Civil Service System, should receive their fair share of such retirement benefits, based on actuarially sound procedures. The contributions of teachers to their retirement fund have been in similar amounts to those of employees of the Federal and District Governments.

Previous law stated that matching funds should have been provided annually by the Federal and District of Columbia Governments for the Teachers' Retirement Pension Fund. However, the Congress allowed a lesser payment from the D.C. Government for at least 2 years prior to the passage of the pay-as-you-go legislation of May 22, 1970, Public Law 91-263. This law changed the method of financing the retirement system from a funded basis to an unfunded basis. The income of the D.C. Teachers' Retirement Fund is derived from three sources:

1. Teachers' contributions.
2. Interest earned on the \$62.8 million in the fund as of June 30, 1969.
3. D.C. Government contribution. (Section 7 of the D.C. Teachers' Retirement Act requires an annual appropriation from the D.C. General Fund into the D.C. Teachers' Retirement Fund.)

For the Fiscal Year 1968, the D.C. Government's contribution was \$3.8 million. If this contribution had been based on the formula in D.C. Code, Sec. 31-727, the D.C. Government would have had to put \$12 million into the Teachers' Retirement Fund. The Teachers' Retirement Fund would have been greater had the formula been used and had arrangements been made for the advantageous investments of these funds over the years by those responsible for the holding and investment of these funds. When we did our research concerning the Teachers' Retirement System, following the enactment of the Home Rule bill, we discovered that there was no committee with authority to invest teacher retirement funds during the years when Commissioners, appointed by the Presidents, served. The fact is that the Secretary of the Treasury, who had the authority to invest and hold D.C. Teachers' Retirement Funds, had delegated this responsibility. A clerk in the D.C. Accounting Office held the portfolio of investments. About \$40 million had been invested in estate or flower bonds, which have been converted, since Home Rule, to AAA Corporate Bonds and U.S. Bonds. The Director of the D.C. Office of Budget and Management was delegated by Mayor Washington to be in charge of these transactions. Mr. George Clay, in this same office, told me that no changes have been made in the investments of the D.C. Teachers' Retirement Fund since Mayor Barry took office. Care should be taken in any liquidation of these funds for the purpose of paying the teacher retirees that the face value of these securities not be greatly diminished through a forced sale. The true value of these investments needs to be protected in any change-over of pension systems.

The D.C. Retired Teachers' Association has worked with the Representatives and Senators, and their staffs, concerning the provisions contained in the District of Columbia Retirement Reform Act ever since the 94th Congress. Hours of hard work, research and problem-solving have gone into efforts to enact legislation safeguarding the pension systems of police, firemen, teachers, and judges in a manner fair to the taxpayers both in our own city and in the nation. We sincerely hope that the Committee on the District of Columbia, U.S. House of Representatives, the District of Columbia Committee, U.S. Senate, and the Executive Branch of our U.S. Government may find a solution to the reasons given by the President for his pocket veto of the bill duly passed by the 95th Congress. We trust that the effort to enact this urgent pension legislation will be successful.

We will do all we can to assist in the passage of this legislation during the first session of the 96th Congress. Our D.C. Retired Teachers reside in the District of Columbia and in 39 of the 50 states. They have made their wishes known concerning provisions contained in this legislation through numerous telephone calls, hundreds of letters to members of Congress, and to the Vice President and President, and also through personal contacts. We have the full support of the NRTA-AARP Joint Legislative Committee and the National Retired Teachers Association.

We thank you for your efforts to bring this D.C. Pension Reform Legislation to a successful conclusion in this Congress.

Respectfully submitted,

ELIZABETH D. GRIFFITH,
ROBERTA S. BARNES,
Colegislative Chairmen, DCRTA.
FRANCES R. MITCHELL,
President, DCRTA.

The CHAIRMAN. Thank you very much, Miss Griffith.

Mr. Frye, I inadvertently identified you as President of the District of Columbia Retired Teachers' Association, rather than the Firefighters' Association. That was inadvertant and I am sorry about it.

Mr. FRYE. Mr. Chairman, I want to thank you and the committee for giving us this opportunity. I have a very bad throat and our Vice President and Chairman of the Legislation Committee will speak.

The CHAIRMAN. We welcome you. If you would pass the microphone over so he could be heard, we would appreciate it.

STATEMENT OF CAPT. DANIEL J. DEVINE, VICE PRESIDENT, DISTRICT OF COLUMBIA RETIRED FIREMEN'S ASSOCIATION

Mr. DEVINE. I am Captain Devine and I am the Vice President of the Retired Firemen's Association and Chairman of the Legislative Committee.

Now, we have passed to each one of you men a letter here and I will read that as part of our testimony.

Before I start, if I may correct this here. As far as the pension, we would like to see a fund built up for this; we are for that. But what we are doing right now, it will explain itself as I go along now.

We wish to call the committee's attention to the retired men who were retired for disability in the line of duty. Some of these men worked 24 hours a day and got off every fifth day and were allowed 1½ hours off duty in the morning for breakfast and 1½ hours at night for dinner.

These men had no insurance of any kind. This is in the beginning of the thing; what I am getting back to is these men prior to 1956. They had to start their own insurance fund and they had to pay for their uniforms.

Their ages range right now from 70 to 93. Now, in 1956, the pension system was changed so that these men today are drawing under the new pension system. At that time, I was with the local and they said it would be too much money if they took all of the men that were in there, so they decided on a date of 1956 and made the men prior to 1956 stay where they were and the men after 1956 to receive the new pension benefits, with all the different benefits for it.

Prior to that, these men, when you got hurt, they could give you 20 percent disability, 30 percent or whatever it was, up to 50 percent and that was the best you could get. These men are still under these conditions. Of course, there are very few—none of them are working today, they are all retired.

There were no gas masks in their firefighting. They had to use sponges in their mouths to stop themselves from being overcome with smoke too fast. So it was a real rough deal for a lot of these fellows. And some of these men who are up in this 93 age bracket have suffered through this.

The death rate of the men now, they'll all be gone in just a few years. There are only 104 men left, and their ages range from 70 to 92.

Now, what we are interested in, if you gentlemen can do it, and you can work it whatever way you can and we would certainly appreciate it and I am sure the police would do the same thing, if there would be some word in there just to say that all of these men prior to 1956 would receive the same benefits in their pension for disability that the men after 1956 get.

Now, that is the only thing that we are interested in to change in the bill. If there are any questions, I will be more than glad to answer them.

The CHAIRMAN. We thank you very much. First we will go to our next witness and then we will have questions of all the panel.

Mr. Sullivan, president of the Retired Police Officers.

STATEMENT OF INSPECTOR JOHN SULLIVAN, FIRST VICE PRESIDENT AND CHAIRMAN, LEGISLATIVE COMMITTEE, OF THE ASSOCIATION OF RETIRED POLICEMEN OF THE DISTRICT OF COLUMBIA

Mr. SULLIVAN. Mr. Chairman, I would like to correct the information on that sheet. I am the first vice president of the association and chairman of the legislative committee. That was a mistake.

The CHAIRMAN. So noted.

Mr. SULLIVAN. I have with me today Mr. George T. Moore and Mr. Edmund J. Fitzgerald. They are in the back of the room; if they stand, you can recognize them. They will be testifying on the Senate side on May 10.

The CHAIRMAN. We welcome you. We have worked with both gentlemen before.

Mr. SULLIVAN. We have worked together, yes.

For the record, my name is John L. Sullivan. I am a retired Inspector of the Metropolitan Police Department of the District of Columbia, first vice president and chairman of the Legislative Committee for the Association of Retired Policemen of the District of Columbia, which includes in its membership retired police officers of the Metropolitan Police Department, U.S. Park Police, and Uniformed Division, U.S. Secret Service.

We thank the chairman and members of the committee for this privilege of testifying on the District of Columbia Retirement Reform Act.

SUPPORTS H.R. 3560

This association supported the Conference Report No. 95-1713 last year because it protected the rights and benefits of present retirees; and we therefore support H.R. 3560 or the conference report now for the same reasons.

The total comprehensive planning and development program that finally evolved into Conference Report No. 95-1713 and approved by both Houses last year would take several pages to relate. Suffice to say, we believe all the hard work done by the staff members and the members of the District Committees of both Houses for several years produced an act of Congress that honored pension commitments made to present employees and present retirees, and properly corrected any abuses that may have been in our pension system.

And that was proven the day, I think, Mr. Chairman, when they admitted they were now enforcing the rules and regulations that were enacted by Congress and the disabilities dropped down to some 42 percent.

We feel the executive branch in the veto message surely failed to realize the Federal responsibility for the accrued and the accruing pension liabilities whether a funded pension bill becomes law or not.

The Home Rule Act did not change the executive and legislative branches' constitutional responsibility to "exercise exclusive legislation in all cases whatsoever over such District."

When the executive branch, with the approval of Congress, abolished on June 14, 1935, our funded pension system and agreed to pay them

by yearly appropriation, the present accrued pension liabilities were foreordained with the executive branch's approval. The executive branch approved the present pension laws along with the legislative branch. The executive branch also asked for and received an additional 2,000 policemen during the 1960's for a total authorization of 5,100, a force substantially larger than for cities of equivalent size, like about $2\frac{1}{2}$ times what the average is for comparable cities as shown by the FBI Uniform Crime Report.

It is obvious, it seems to all but the executive branch, that the citizens of the District of Columbia, with the limitations placed on the city because it is the Nation's Capital, cannot possibly pay all the operating cost, the accrued pension cost since 1935, and the accruing pension cost for a police force approximately 2.42 times as large as the average for the 19 comparable cities in the country.

We believe H.R. 3560 or Conference Report No. 95-1713 meets the Federal responsibility as to funding and provides the necessary monetary incentive to the District Government for administrative improvements in the police and fire disability retirement program in section 145 of the bill.

Mr. Chairman, we sincerely hope you and the members of your committee will approve H.R. 3560 or Conference Report No. 95-1713 as presently written because the comprehensive planning and development that is presented in this bill is unlikely to recur and we believe it is fair to the Federal Government and the citizens of the District of Columbia and honors the pension commitments made to present employees and retirees.

Again, we thank the chairman and members of the committee for the privilege of testifying.

The CHAIRMAN. Thank you very, very much, Mr. Sullivan.

The Chair will yield to the ranking minority member.

Mr. McKINNEY. Thank you all for appearing. We hope we can expedite this bill this year for you. I know the two gentlemen in the back of the room have sat here innumerable days and days, like the chairman and I have. I thank you both for coming and adding your testimony.

Miss GRIFFITH. Mr. Dellums, may I refer some information for the committee? I have with me a report from the National Education Association Research Department. It is entitled, "NEA Criteria of Adequacy for Retirement Systems". This might be helpful to you and the members of your committee in evaluating our present program. It might be useful to you.

The CHAIRMAN. Without objection, it will become part of the permanent record of these proceedings.

Miss GRIFFITH. I will contribute this material to you. And also, I want to state that the research division of the National Education Association now has a computer system which will be able to give you data on the boards of trustees for retirement systems for teachers in every State in the Union. This material would be immediately available to you and your committee if you just contact the NEA Research Division.

The CHAIRMAN. Thank you very much for that information.

Just before you leave, all of you are saying clearly for the record that you support the legislation that is before us?

Mr. SULLIVAN. Yes.

Mr. DEVINE. Yes.

Miss GRIFFITH. Definitely.

The CHAIRMAN. I see. Thank you very much.

Mr. SULLIVAN. Thank you, sir.

The CHAIRMAN. The next panel of active groups, Mr. William Simon, president of the AFT, but I notice he is not here. Is he represented by counsel? We would appreciate it if the counsel representing AFT would come forward.

Mr. William Hoyle, president, District of Columbia Firefighters' Union.

Mr. Larry Melton, representative, and Mr. John Markuns, general counsel, International Brotherhood of Police Officers.

We would like to welcome all of you and you may proceed in the order that you were called.

Mr. Braxton?

STATEMENT OF CHARLES BRAXTON, LEGISLATIVE REPRESENTATIVE, WASHINGTON TEACHERS' UNION

Mr. BRAXTON. Thank you, Mr. Chairman. My name is Charles Braxton. I am appearing for Mr. William Simons, who has a very pressing engagement with the court. So he regrets he is unable to be here.

The CHAIRMAN. We understand.

Mr. BRAXTON. Nevertheless, I would want to communicate to you our support of the legislation. And just for the record, we did ask that the staff consider again, the committee and the staff consider again, the request we made in behalf of teachers in the special education part of the public schools program who originally came to the public school system from State or community agencies dealing with problems with kids with mental retardation or special needs. And responding to the legislative mandates and to court orders, they provided a readily available resource for these kinds of skills that were required immediately. They are now confronted with the possibility of being somewhat short of the necessary period for the benefit eligibility. And we are asking that, in section 123, that the language be so written that these people will be covered. We would appreciate that very much.

The only other point we would like to make, Mr. Chairman, is in full appreciation of the kind of work and commitment that has gone into this legislation on the part of the committee and the staff. However, within your considered opinion, of course, you have decided how the language shall go. But hopefully, the language is not such that the Federal Government will, at some point in time under such terms as the appropriation authority, decide that for some reason it will not do so in the manner in which the bill intends.

Our experience with the Federal payment, which also has an appropriation authority, inclines us to raise this question. You see, as our experience leads us to understand, the Federal Government and the Congress do have the capacity to create considerable fiscal difficulties in the city. And therefore, to the extent that sometime in the future this would occur, possibly the benefit rights and schedules of retirees

and those about to retire could be jeopardized. And therefore, if you would restudy this legislation in the light of that kind of apprehension in such a way that the committees other than this committee considering the appropriations may be guided by what this committee has done.

The CHAIRMAN. Thank you very much. Mr. Simon's prepared statement will be included in the record.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM H. SIMONS, THE WASHINGTON TEACHERS' UNION, LOCAL NO. 6 AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Mr. Chairman and members and the committee, the Washington Teachers' Union appreciates the opportunity to present testimony on Bill H.R. 3560. This legislation establishes an actuarially sound basis for financing the pension systems for District of Columbia Police Officers and Firefighters, for Teachers and Judges. My name is William H. Simons, and I am privileged to speak for the more than 6,000 members of the Washington Teachers' Union as its President. Further, we wish the record to include our gratitude for the work of the Committee and its Staff which has developed this legislation to this point.

Overall the bill is a representative document which seeks to achieve the aforementioned purposes and simultaneously, minimize severe alteration of benefits. There are, however, observations we would like to make regarding certain provisions. And, we reiterate certain requests made to the Committee in earlier testimony on this subject.

Mr. Chairman and Members of the Committee, Sec 101 sets forth the findings of the Congress with respect to the deficiencies of the present subject retirement system. In those findings the clear conclusion is reached that "Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long term financial requirements of the District's retirement programs." The findings, further, concluded that the annual budget cost for Police Officer and Firefighter benefits would exceed salaries for these employees by the year 2000.

That declaration is followed by a sequence of five elements identified as " * * * the purpose of this title * * * " Item (5) purpose provides for Federal payments * * * to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self government under the District of Columbia Self-Government and Governmental Reorganization Act.

Mr. Chairman, this language is inconsistent with both the explicit and implicit meaning of the findings, and the conclusions. One need not assess much of the historical relationships between the Congress and the District. Even since the date of Home Rule, the governance of this City by the Congress is unmistakable. This is a simple statement of fact that the will of the Congress prevailed, then, as it does now, in all legislative matters affecting the District.

Not the least of these is the present pension system. Whether or not that system would otherwise have been formulated better or worse is not here under debate. The truth of the matter is that this pension system, its imperfections, and deficiencies are the work of Congress. Our argument, then, is with the strained and weakened purpose, No. 5 " * * * to help finance, in part, the liabilities for benefits incurred by the District of Columbia."

I, am therefore, supporting the D.C. Mayor's position in this regard. That given the character of the Congressional involvement in the District's governance, there, also, rests the responsibility for the unforeseen results.

Under such a relevant logic, hires in the District of Columbia Government are, and have, entered into an explicit agreement with the District Government. Not only that, this explicit agreement extends to the Federal Government through the exercise of Constitutional authority by the Congress to intervene in matters affecting the District of Columbia.

DISTRICT OF COLUMBIA RETIREMENT BOARD

Section 121 establishes the District of Columbia Retirement Board. The Washington Teachers' Union maintains its earlier position endorsing the establishment

of this Board as proposed. The two terms of four years each for Board members provide recognition of the complex nature of retirement and pension plan administration. Acquisition of the experience necessary to function in this endeavor rests upon an adequate period of exposure to learn the process.

Tenure limitation of Board membership in this highly complex task could be self-defeating. The well intentioned limitation requirements as a barrier to potentially unethical practices is understandable. Nevertheless, we argue for electoral controls. We see the interests of retirees and employees better served where they exercise by vote, the tenure of Board members. With the accountability and reporting requirements written into these Bills, we find the safeguards adequate and supportive of plan membership control.

Such control provides for retention where the acquisition of skills and dedication to the mission warrants. It provides for advancement and protection of the interests of employees and retirees. And, it provides for a continuity of skills critical to the process.

Mr. Chairman and Members of the Committee, Section 121(f)(3) limits the roles of the Mayor and the Council in the budget allocation of funds to the (Retirement) Board. Under the language of this section the Mayor nor the Council may specify "* * * the purposes for which such funds may be expended or the amounts which may be expended * * *" The Mayor and the Council in their budgeting responsibilities should have the right of inquiry, on an item by item basis, the fund expenditure objective for the funds allocated.

In our opinion, consistency requires that where the Congress has placed an obligation for executive and legislative function, that function should not be diluted in the means by which the obligation may be accomplished. Including an authorization for inquiry removes the controversy over the legitimacy of these bodies to assess the budget in terms of the stated objectives.

AMENDMENT PROPOSED

At Section 123(b)(3) Mr. Chairman, the Washington Teachers' Union requests the addition of the following language, the purpose of which is described below. Provide in this Section, or elsewhere, as appropriate, an added amendment or language "to provide creditable service eligibility, not to exceed ten years, for teachers in specialized education for the education, therapy, and training of handicapped pupils in the D.C. Public School System, whose training and experience beyond the recognized institutions of higher learning occurred in governmental or community service agencies prior to the inauguration of such programs in the D.C. Public School System."

The requested language approval rests upon a currently apparent need.

Growth in school programs and services designed to serve handicapped pupils of the District Public Schools exceeded the ready availability of the skills required. The professionals, to whom this proposal refers are those associated with mental health and psychiatric services.

The problem, here, is the inability of these school employees to purchase eligibility for creditable service. Their prior services occurred, mainly, in community or state and local agencies serving handicapped individuals. Subsequently, under court decrees and Federal mandate, the school system's need for their skill rose considerably. These professionals provided an immediate resource. Currently, or in the next few years, they will be short of adequate pension benefits within existing or proposed laws.

We are asking that the interpretation of "* * * eligibility * * *" be sufficiently broad to provide the necessary pension benefits to this group. Mr. Chairman, we regard this matter as warranting your consideration and that of the Committee.

Again, thank you, Mr. Chairman, for the hearing and consideration provided our views.

[Subsequently, the following additional statement was received for the record:]

THE ADDENDUM STATEMENT TO THE WASHINGTON TEACHERS' UNION'S SUBMISSION BY WILLIAM H. SIMONS, PRESIDENT, LOCAL NO. 6, AMERICAN FEDERATION OF TEACHERS, VICE PRESIDENT, AFT, AFL-CIO, AND CHARLES BRAXTON, LEGISLATIVE REPRESENTATIVE

Mr. Chairman, the Washington Teachers' Union appreciates the opportunity granted to further comment on H.R. 3560. In doing so, we hasten to further

acknowledge the very obvious intention of the Chairman and this Committee to devise a formula by which the obligation of Congress and the Federal Government may be met. Your commitment to and pursuit of this goal is clear. And, the City, its employees and citizens are appreciative.

We do not desire to second guess the drafters of H.R. 3560. Presumably, the language necessary to the approval of the Bill by the Congress is exactly as written. Nevertheless, certain provisions have the effect, as we read them, of rigidity applicable to the City. Federal responsibilities are not equally as firm.

The worry, here, is the will of Congress and administrations in the years addressed by the legislation to continually meet agreed upon action proposed.

Mr. Chairman and Members of the Committee, the Union accepts the opportunity to respond to questions raised by you and to make added observations on the subject of District of Columbia pensions.

First, comments were requested on the following: The Mayor's request for an elimination of the one-year grace period following a decision to terminate an employee's disability retirement; and (2) the City's proposed determination of the percentage of current employee disability.

Inherent in the Mayor's proposals are those means by which the City's fiscal burdens under current pension programs may be better contained. And, we are not unmindful of this purpose. Nevertheless, the complex issues of pensions and benefits, costs and contributions are not addressed by the most obvious approach. Therefore, we view the Mayor's proposals as insufficient. The one-year grace period fulfills the disability claimant's rights to respond to a decision to terminate such benefits. In the absence, of means and machinery for adequate treatment of appeals and hearings, we cannot concur with this proposal. As the requirements become increasingly toughened, the potential for expanded incidences of appeals become greater. Adding the kinds of judgments involved, the burden upon appeals machinery may very well exceed present anticipation.

The percentage determination of current employee disability claims involves the employee's livelihood as well as the City's fiscal difficulties. It is with reluctance that we cannot concur with proposed changes. But placing a potential disability claimant in a possible pauper or poverty category will not save costs in the long run. If and when such an individual becomes a City charge and welfare recipient, the costs will simply shift from one category to the other. Then too, diminishing such benefits to new, and presumably local resident, employees raises rather unpopular measurements between the new and older employees regarding benefits.

Another proposal to retain disability termination authorization to age 60 instead of 50, in our opinion, will not produce measurable relief. Age 60 nears the retirement age to the point that only a few years of productive effort remain. And, in instances of hazardous or otherwise active and strenuous positions, a required return to duty could be fiscally counterproductive. Likewise, lives and welfare of others as well as the employee may be jeopardized where capacity performance cannot be met.

In the main, we see the proper response to these and other issues raised by the Mayor to the acceptance of the Federal responsibility. Such action should be designed to uphold the integrity of the explicit contract between employees and the Federal Government.

On the matter of language, the referenced provisions of H.R. 3560 clearly establish the City's liability. And, rightly so. Let us, then, review the distinctions where obligation language occurs. Section 142 treats with Federal and District of Columbia payments to the fund. At subsection (c) (2); P-36; line 10, the Mayor and the City Council shall include in its budget " * * * not less than the full amount certified by the Board * * * as being the amount of the District payment * * *." Further in such requirements is the language in (d) (2) on " * * * a change in benefits under a retirement program * * *."

Our comments do not imply the absence of the City's obligation. But in Sec. (d) (2) benefit changes, as in most instances, reflect national phenomena rather than locally induced changes, i.e., inflation.

Under such conditions, the Federal obligation should respond to change in a manner, if not degree, similar to that of the City.

In Section 142 (e); P-37; line 18, the language begins charting the means by which the Federal obligation, referred to as the "... amount authorized ..." is reduced. Under the provision of Section 144 (a) (1) and the obvious penalty of Section 145 the City risks loss of such "... authorized ..." funds. Section 144 (d); P-40; line 6, further clarifies the City's funding obligations. Loss of "... authorized funds ..." is again the penalty.

At Paragraph (2); line 18, page 40 reference is made to the limitations of the Federal share. Our comments on this provision occur later in this presentation.

Mr. Chairman, the above references point to the clear and definitive obligation of the District Government regarding the payments to the pension funds. Contrarily, Section 144 (a) authorizes the appropriation "... from the revenues of the United States ... Federal payments ..." to the various funds. Our experience with the terms "... authorized appropriation ..." gives cause for the concern stated earlier. We find the language in Section 142 (3) (D); line 17, page 32, "The future Federal obligation" as more accurately describing our presumed intent of this legislation. That language, we strongly suggest, should replace "authorized appropriation" whenever it occurs. Certainly, the sense of continued fulfillment by the Federal Government over the years ahead would provide the kind of fiscal certainty needed by the parties.

Additionally, where the roles of the Congress, the General Accounting Office, the Mayor, Board of Trustees and other bodies interact, the potential for difference in conclusions arise. Certainly some mechanism for determination of reasonable resolution should be structured in these provisions.

These comments, uncritically, recognize the certain sovereignty of the Congress. They also, recognize continued differences with respect to the manner in which District affairs should be managed. It is critical, therefore, that this matter involving the living capacity of employees addressed here be devoid of uncertainty.

It is appropriate, here, we believe to ask that the limitations of the Federal obligation referred to earlier be reassessed. Section 144 (c) (2) defines the "... Federal shares ..." as "the accrued unfunded liability as of October 1, 1978 for members retired prior to January 2, 1975 ..." and their beneficiaries. In raising the issue with respect to this provision, we are keenly aware of the Congressional power to set its limits. There remains, however, the question of how far Congress' obligation extends, here. We would respectfully argue that employees now covered by the system fall within the existing authorized pension formula. And, to the extent that the unfunded liabilities apply to such covered employees, obligations weigh upon the Federal Government and the City, at least, until these deficiencies are remedied.

The formula in H.R. 3560, we trust, will achieve the necessary remedy. But, in our view, the inequity created by the earlier designed formula should not fall upon limited revenue sources available to the City. Such limitations are, of course, consistent with the Congressional will regarding its economy.

Substantively, Mr. Chairman, we endorse this legislation and its purpose. Our exception described in this addendum requests the Federal acceptance of a clearly defined obligation. And that recognition includes the obligation to fulfill the terms in the same manner as required of the City. The community of affected employees are quite necessarily concerned with the uncertain prospects of income in their later years. That aspect of employment, pensions, have always been a consideration of employment. I am certain that, under increasingly demanding conditions, it will remain so.

We trust that these observations will be of assistance in developing a feasible formula which is both affordable and just.

The CHAIRMAN. Mr. Hoyle?

STATEMENT OF WILLIAM N. HOYLE, PRESIDENT, DISTRICT OF COLUMBIA FIRE FIGHTERS' ASSOCIATION

Mr. HOYLE. Thank you, Mr. Chairman.

I am William Hoyle, president of the Fire Fighters' Association. We would like to submit the written testimony for the record and just summarize briefly.

The CHAIRMAN. Without objection, so ordered and the gentleman is recognized.

Mr. HOYLE. Mr. Chairman, we also support H.R. 3560. We worked for H.R. 6536 and believe it was a fair and equitable bill. We also feel

that the veto was very unfortunate. But we are dedicated to try again.

The firefighters also feel that last year our members compromised as much as we could and that is as far as we will go. We are back again this year and we will work with all our effort to pass H.R. 3560, and we are fortunate to have yourself and Mr. McKinney leading the fight as well as the other members of the committee. We are deeply appreciative.

If you would allow me, I would like to make just a couple brief comments on the Mayor's four proposals that he made here today.

In a nutshell, we think three of the four are not feasible and one is not necessary. As far as the 50 to 60 years, first of all, I do not think it is a 60-year-old man's job; and the second thing is, as Mr. McKinney says, the average age is 72.4 for the males. And it is also known that when you sign on as a firefighter, you forfeit 8 years of your life, so that reduces you down to 62. And I think statistically that can be proven.

As far as the makeup of the Board, we feel it is our money and we feel that the employees should have the greater portion of the representation on that Board.

And I will be glad to answer any questions if you have them.

[The prepared statement of Mr. Hoyle follows:]

STATEMENT OF WILLIAM N. HOYLE, PRESIDENT, FIRE FIGHTERS ASSOCIATION OF
THE DISTRICT OF COLUMBIA

Chairman Dellums and members of the Committee, we wish to thank you for this opportunity to express our views on H.R. 3560, the D.C. Retirement Reform Act. There are no benefits that mean more to our membership than those provided in our retirement system and this legislation is of the utmost concern to the firefighters of the District of Columbia. The retirement program is an essential part of our employee benefits and our membership has always viewed these benefits as part of the contractual arrangement between them and the District of Columbia. All firefighters and their families look forward to enjoying these benefits upon completion of their service to the city and are of the strong opinion that the employee contributions that have been deducted from each biweekly paycheck and the satisfactory performance of their duties fulfills the employees contractual commitment to the system. Each member has every right to expect those who established the system, the Congress, and those who administered the system, the City, to meet the commitment they promised to their employees.

The provisions of the proposed legislation are the same as those of H.R. 6536 which was vetoed at the close of the last session of Congress. Our Association and the other employee groups worked diligently in reaching agreement on those provisions and after many months of concentrated effort, and compromise, the final version of the bill was sent before the House and Senate. The effort that was expended in developing this equitable solution to a very complex problem was reflected in the total support of all political philosophies and passage by an overwhelming majority in the House (348 to 21) and by unanimous consent in the Senate. The legislation was subjected to intense scrutiny by all parties, including the Conference Committee, and it represents the best possible solution that protects all interested parties and proportionally shares the responsibility for the past as well as the future among the employees, the District, and the Federal Government. We strenuously supported the legislation last session because it represented the optimum solution and we remain steadfast in our support of the current legislative effort.

H.R. 3560

The justifications, objections, and rationale for the compromise we made on H.R. 6536 in the last Congress are as valid today as they were then and are incorporated in the record so it would seem redundant to restate them before you again. Our only reservation on the provisions in H.R. 3560 is in regard to

the penalty formula that evolved on the last day the Conference Committee met. We do not object to this type protection but we feel improvements could be made with more detailed and comprehensive discussions. This provision should be of greater concern to the City and rather than delve into an area beyond our area of competence we will refrain from making additional remarks on this subject. We would like to highlight some of the legislative background for the new members of the Committee in an effort to show how the retirement program became such a quagmire and who has the responsibility to meet both past and future liabilities.

LEGISLATIVE HISTORY

The legislative history shows that employee contributions by the police officers and firefighters started in 1885. Over the years the percentage of employee contributions escalated from 1½ percent in 1916 to the current rate of 7 percent. Every employee who has received a benefit made these contributions from the date of their employment until their retirement. This financial obligation and the satisfactory performance of their duties throughout their career is the legislated employee responsibility to be eligible for benefits. Salary and other benefits were sometimes traded for improvements in the retirement program but no employee ever anticipated the loss or forfeiture of benefits that had been promised.

The legislative history also shows that over the years the various Congresses recognized the financial liabilities of the system and on several occasions took action to assure financial stability. In 1916 a House District Committee Report included the statement, "This act of Congress placed the pension system of these departments on a sound financial basis, and all deficiencies are taken care of." Also in the Act of 1916 it was stated, "Under this law Congress for the first time placed the pension system of the police and fire departments on a sound and stable financial basis." In 1924 Congress passed legislation that established a 60-40 sharing of the financial liabilities for the retirement system as well as raise the employee's contribution. In 1941 Congress required the Treasury Department to conduct a study "to determine the proper proportionate contribution of the members of the participating forces and the District of Columbia, *including necessary legislative recommendation.*" [Italics supplied.] The matter was legislated again in 1957 when Congress assumed the financial responsibility for payments to the extent that the benefits exceeded the deduction from the salaries of the employees. Finally in 1971 the Nelson Commission, who viewed the matter of financing the retirement system both urgent and serious recommended to the Mayor-Commissioner that an actuarial study be made to determine the actual status of the Police, Fire, and Teachers retirement programs. Mr. Nelson also offered actuarial assistance to the District by the Treasury Department and later that year the Treasury Department was requested to conduct the study. It can be seen through these events that the funding problem is not new and Congress was intimately involved in the morass. This entire matter was clearly out of the control of the employees.

Through the administration of the system and failing to recognize the magnitude of the consequences the City has played an integral roll in the overall problem. During the 1957 hearings before a Senate subcommittee the city supported the pay as you go form of funding and minimized the value of a funded system. In 1971 the city was cautioned on the potential financial disaster in maintaining the unfunded system by the Nelson Commission which made a strong recommendation to have an actuarial study made to determine the status of the liability. To our knowledge this recommendation was not followed nor was there any other conscientious effort made to rectify the problem. It would be naive to think the city officials were not aware that ultimately this tremendous financial liability would have to be met. The lack of affirmative action and the poor administrative controls we outlined in our previous testimony makes the city a principal partner in the pension dilemma and they should help shoulder the burden of any reform measure. Through tighter administration the disability rate has dropped drastically in recent years. Had this attitude prevailed in previous years the need for reform could have been eliminated and the financial liability would have been significantly reduced. To seek restitution from those currently employed for abuses that occurred in the past has no basis of equity and seeks to punish the employees for abuses caused or permitted by the City.

It is the City who should be held accountable for the past together with the Congress and only those employees who allegedly abused the system.

In the President's veto message of H.R. 6536 he stated that he withheld his approval because reform benefits were not applicable to present employees; the bill overstated the financial responsibility of the Federal government; and he objected to the method of funding. The widespread support in the aftermath of much adverse publicity over disability retirements indicates that the reforms included in last years bill eliminated the provisions that had caused the controversy. The legislative history establishes that the Federal government has a clear moral obligation to absorb the lions share of the unfunded liability and the funding method was a compromise between the House and Senate. The current employees have already accepted the reform provisions which represent a benefit reduction and to make additional demands from those who have met their obligation to the system and never taken advantage, much less abused, any benefit is misplacing the emphasis on reform. The President also suggested a joint initiative to start early this session which to date has not taken any legislative form. We were shocked at the veto of H.R. 6536 and remain adamant that the provisions of that bill, which now make up H.R. 3560, are a fair and equitable solution to the Districts long standing pension problem.

The employees have become pawns in this highly complex financial and political issue. It is their future which is on the line and they are frustrated and dismayed that promises made by both the Federal and District governments are being compromised. Our membership has and will continue to work for a fair legislative measure that will once and for all guarantee the benefits they have been promised but they remain firm in their belief that they should not be the scapegoats for past mismanagement and shortsightedness over which they had no control. We are dependent on the sense of justice that lies in the hearts of the members of this committee and all other members of Congress. With the same leadership and strong commitment that was so evident during the last session of Congress, we have every confidence that our rights will be protected.

The CHAIRMAN. We will move on to hear the testimony of all the members of the panel and then we will open up for questions.

Mr. Melton.

Mr. MELTON. Mr. Chairman, I yield to the general counsel for IBPO Local 442. He will present our testimony for our local.

The CHAIRMAN. Mr. Markuns.

STATEMENT OF JOHN MARKUNS, GENERAL COUNSEL, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

Mr. MARKUNS. For the record, I would like to ask that our testimony be accepted as written, and at this time we would like to submit that for the record and I would just briefly summarize some proposals that we put forth in this testimony. Then I would like to comment briefly on the Mayor's testimony today.

The CHAIRMAN. Without objection, so ordered and the gentleman is recognized.

AMENDMENTS PROPOSED

Mr. MARKUNS. Briefly, we propose four specific changes in H.R. 3560, none of which we consider major but all of which we believe would actually strengthen the legislation. As to our first proposal, you may consider it whistling in the wind, if you will, but we honestly and sincerely believe that there is no need to eliminate the aggravation clause.

AGGRAVATION CLAUSE

If I may briefly summarize our arguments, the committee's own statistics that they put forth to the House conferees last year in

September of 1978 clearly demonstrated that, although in 1971 the aggravation clause constituted roughly 78 percent of all disability retirements in the District, by 1977, the percentage had decreased to 21 percent of all disability retirements.

Furthermore, the total in 1977 was only 20 out of 96 retirements that year. If you take a look at the court cases in the District of Columbia Court of Appeals that came down since 1971, I believe that you will find the real reason why—you will in fact find that the aggravation clause is not the ogre that it has been made out to be. The District of Columbia Court of Appeals, back in October of 1971, found that the burden of proof in an aggravation case lay solely with the member seeking retirement; that, in fact, he had to prove aggravation, that he had to prove his injury or disease was aggravated in the performance of his duties. That case was reaffirmed in 1974 and again in 1976, in two separate cases.

As a member of the District of Columbia bar who actively practices before the Retirement Board and the District of Columbia Court of Appeals, I submit that that is the real reason that aggravation clause cases have been reduced in the District; and that in fact, if you amend the aggravation clause at this point, you are actually saying that those individuals who can actually prove that their injury or disease was aggravated in the performance of duty should be penalized and in fact they are not deserving of a disability retirement.

Although there has been a lot of publicity about this point, I think that if you take a look at the case law that exists in the District and take a look at your own statistics, a sound case can be made to retain the aggravation clause.

What we fear most is that, although we recognize that in last year's House report there was a statement that said that a disability retirement would still be looked at, if it was in the performance of duty, as having arisen out of and in the course of employment, that if you take a look at some District of Columbia Court of Appeals cases, they will not accept one House report. And unless that language is incorporated into a conference report or adopted somehow by both Houses, preferably in legislation, you will have some people who will suffer, merely because of an overreaction to the abuses that happened to occur the last couple of years.

PERCENT OF DISABILITY

Just to go on briefly to some of our other points, I think if you take a look at the standards that have been set out, the factors you have asked the Retirement Board to look at in determining a percentage disability retirement for new employees, we would respectfully ask you to take a look at the specific language contained in there. There is one specific phrase that we would like to see changed. One of the factors you ask the Retirement Board to look at is "the position on the Metropolitan Police Force or the Fire Department of the District held by the member immediately prior to his retirement." We would like that changed to state that the Retirement Board look at the "position on the Metropolitan Police Force or Fire Department of the District of Columbia held by the member at the time he suffered his injury or disease."

The reason we make that point is that there is a controversy, as I believe the Mayor alluded to this afternoon, concerning limited duty in the Police Department. It is our position that limited duty should basically be rehabilitative in nature in that it is a good and useful tool to try to encourage an employee to come back to work. However, the way the legislation is drafted right now, in effect, an employee may waive any possibility of disability retirement by coming back to work in a limited duty capacity, say, for example, after he has had a back operation. One of the proven ways, it appears, that an employee may be able to come back from one of these operations is to try to work himself back into shape, perhaps in a limited duty capacity. With the legislation as presently written, what may happen is that you have the employee who comes back on limited duty who actually, in effect, has waived his right to disability retirement even if he shouldn't fully recover because he can still file documents in the precinct house. And yet he still suffers from the back injury, he cannot work on the street, he has a permanent disability of some sort.

We think the intent of the legislation was to demonstrate that when you take a look at the position the employee was performing in, that it was the position he was serving in at the time he was injured. And we would like to see an amendment to make that more clear.

AGE FOR RETIREMENT

Finally, we will make one last plea. We do believe that the age requirement should be dropped in the bill for new employees for optional retirement. We think, in fact, that the Mayor's own position, despite his comments on age to the contrary, strengthens our position. One of his prime arguments for eliminating the 3-percent increase for employees with 25 years of service or more was that it was an incentive for police officers to stay beyond their time in the police department. Yet I believe the 50-year requirement is the harshest incentive of all. And in fact, it is neither necessary nor advisable in the District of Columbia. We have a young, aggressive police force that has managed to reduce crime in the District. And in fact, as I am sure Larry can testify, that is a young man's game. And in fact, the age requirement will not help the police force or help in the fight against crime in the District of Columbia.

Briefly, a couple more comments on the Mayor's statements today.

It appears that his proposal concerning reducing the minimum floor for employees on disability retirement is based only upon actuarial logic and has no relationship to the human suffering that actually occurs. We believe, in fact, that the floor that is contained in the bill is probably too low. The purpose, as we see it, of the disability retirement system is, first of all, a crude attempt to make an individual whole for the losses that he has suffered; and second, to help him adjust to his handicap and allow him to begin a new life for himself. And certainly 15 percent or 25 percent just is not enough for an individual to adjust to a permanent partial disability.

I think that if you take a look at, again, the factors that the legislation sets out for the Board to look at in determining disability retirement, you see, for example, the Board only looks at gainful activ-

ity as a criterion. It does not look at an employee's actual wage-earning capacity. We agree that that is a very difficult thing for a Board to look at and in fact it would probably stretch out the procedures, perhaps interminably. But if in fact a standard cannot be drawn for the Retirement Board to look at other than gainful activity, then certainly the floor is necessary so that an employee at least has a fighting chance to get back to the point where he can approach his former wage-earning capacity. The floor is an absolute necessity, looked at in that light, and we just cannot agree with the Mayor's proposal.

BOARD OF TRUSTEES

Finally, and I am just reiterating, I think, what Bill has already stated, a board of trustees is an absolute necessity. Furthermore, we believe that the present composition of the Board is the correct one. These are not just taxpayers' dollars, these are employees' earnings. And in fact, we believe that employee members are the best people to protect that money and protect those investments. The Board has to be insulated from public pressures. We believe the present setup is the proper and best structure to use.

The Mayor analogized this Board of Trustees to the Rent Control Commission. The Rent Control Commission is regulatory in nature. This is a board of trustees. It has a fiduciary responsibility and it is just apples and oranges. We believe that the employee members would in fact be true trustees.

[The complete statement of Mr. Markuns follows:]

PREPARED STATEMENT OF JOHN F. MARKUNS, GENERAL COUNSEL, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

Mr. Chairman, members of the committee, my name is John Markuns, and I am general counsel for the International Brotherhood of Police Officers. On behalf of Local 442, which represents the privates and sergeants in the Metropolitan Police Department, I thank you for the opportunity to present this testimony. As I am sure you are aware, IBPO Local 442 has joined with the Fire Fighters Association, Local 36, and the Washington Teachers' Union in their support of the provisions of the October 4, 1978 conference report on the District of Columbia Retirement Reform Act. We view this legislation as a viable solution to the city's retirement problem. It most probably constitutes the best compromise that can be reached protecting the interests of all parties concerned.

AMENDMENTS PROPOSED

However, since the new city administration has chosen to offer its own proposals to further modify this legislation, and since the Committee has solicited comments and suggested revisions of specific provisions of this bill, IBPO Local 442 will offer certain proposals for the committee's consideration.

Before offering these proposals, one final preliminary comment must be made. IBPO Local 442 is adamantly opposed to any reduction in the level of benefits which exist for current employees. In our opinion, the Congress and the District have entered into a moral contract with the present members of the police force, when it recruited them under the present statutory scheme of benefits. To reduce any existing benefits for current employees, will create damage which will never be undone. The conference report legislation has not reduced the level of benefits for current employees, and it is this one aspect of the legislation which must remain intact, if the IBPO is to actively support H.R. 3560.

I will now offer for consideration specific proposals which, in our view, will strengthen this legislation.

1. AGGRAVATION CLAUSE

First of all, some of the "reforms" touted as the cure for abuse of the Retirement system are both overreactions to sensational headlines, and in fact create a new set of inequities which will cause personal suffering and hardship for numerous current and future members of the Metropolitan Police Force. The most notorious of these reforms, is the proposed amendment to the so-called "aggravation" clause, contained in section 204 of H.R. 3560. This committee's own statistics, as contained in a staff memo to House Conferees, dated September 26, 1978, indicate that, beginning in 1972, the number of disability retirements under the aggravation clause dropped from a percentage of 78 percent of the number of total disability claims to a percentage of 21 percent of total disabilities in 1977, the last year for which such statistics were available.

The Committee staff memo attributes this decline in retirement under the aggravation clause, to the twenty and out provisions under optional retirement; IBPO Local 442 respectfully disagrees with this interpretation. While optional retirement may be in part responsible for the reduction in the overall number of disability retirements, I submit that the real reason that the number of "aggravation" cases have been drastically reduced can be found in the rulings of the D. C. Court of Appeals, the first of which was handed down in October, 1971. These rulings shifted the burden of proof in "aggravation" cases from the government to the member seeking retirement.

In the lead case in this area, *Johnson v. Board of Appeals and Review*, 282 A 2d 566, the Court stated:

"* * * the wording of § 4-527(2) does not seem to sustain petitioners' position on the question of burden of proof. Even if we accept petitioners' premise that the original cause of their respective mental disorders is "doubtful", the second paragraph of the applicable section provides that an injury or disease must be "shown to have been aggravated by the performance of duty to such an extent that the member is permanently disabled for the performance of duty." (Emphasis supplied.) This language strongly suggests that it is up to the claimant, if original causation is obscure or concededly due to factors outside the service, to prove that his disease or injury was subsequently aggravated by events occurring in the line of duty"

As a member of the D.C. Bar who actively practices before both the Retirement Board and the D.C. Court of Appeals, I submit that this is the significant event which has contributed to the reduction in the number of "aggravation"-related retirements. Therefore, IBPO Local 442 proposes that no change to the present aggravation clause be adopted, since none is necessary. Any change will only penalize those members who can actually prove their duties aggravated their injury or disease.

2. PERCENT OF DISABILITY

Our second proposal relates to the factors set out in Section 145 and 204 which control the Retirement Board's determination of the percentage of disability suffered by a member of the force. One of the factors which the Retirement Board is instructed to consider is "the position in the Metropolitan Police Force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement". We propose that this subsection be changed to more clearly state its intent. We suggest that this new subsection read as follows: "The position in the Metropolitan Police Force or the Fire Department of the District of Columbia held by the member at the time he suffered his injury or disease."

As presently written, we believe this subsection will discourage an officer who is concerned about whether or not he will fully recover from an injury or disease, from attempting limited or light duty, which is often a first step to recovery. For example, if an officer who has suffered a serious back injury, attempts to return in a limited duty capacity, perhaps filing documents at the Precinct, he may be precluded from ever claiming a disability retirement. The bill as presently written would appear to preclude him from requesting disability retirement, since he is not "disabled" from performing filing duties, which constituted his last "position" in the Department. As a result, the officer is stuck in a dead end job, with no chance for promotion, and no compensation for the disability he has suffered, merely because he attempted to begin rehabilitation by working in a limited duty capacity. Our proposal would strengthen H.R. 3560, by permitting an officer

who has suffered a disability injury, an opportunity to work himself back into shape, at minimal cost to the District, without jeopardizing his rights to an eventual disability retirement, should he not fully recover.

3. AGE FOR RETIREMENT

As a third proposal, IBPO Local 442 suggests that the age requirement be dropped from Section 203 of the bill. There can be no question but that Washington, D.C. has benefited from a young, aggressive police force. The age limitation on optional retirement may very well adversely affect the character and effectiveness of the force with minimal savings to the District. The typical recruit now enters the Metropolitan Police Force at age 21. After 25 years of service, he has reached age 46, and his effectiveness in the street, in most cases, will have diminished significantly. While at first glance it appears that the District would reap significant financial benefits in saved pension costs, these costs are offset, at least in part, by the savings which result from hiring a young, more physically capable replacement, at a lower salary. Further, elimination of the age requirement will also eliminate the pressure on the disability retirement system which an aging police force would inevitably place on the disability system, even a percentage disability system.

4. CREDIT FOR FBI SERVICE

Our fourth proposal relates to a rather technical change to the present retirement system, but one which would correct an inequity which a small group of Metropolitan Police Officers will suffer unless soon corrected by legislation. Our proposal, as contained in an attachment to our testimony, would amend the present definition of creditable service to allow certain police officers who worked for the Federal Bureau of Investigation, to receive full retirement service credits for the time during which they served the federal government.

In the early 1950's the FBI hired most new employees under "excepted indefinite appointments." These appointments were excluded from coverage under the federal retirement system, by law. Ultimately most of these employees were converted to excepted appointments, which entitled them to federal retirement system coverage. During this same period of time many of these employees were then recruited for the Metropolitan Police Department. While existing law allowed these officers the opportunity to contribute to the District's retirement fund to receive service credit for the time served in the FBI under an excepted appointment, it did not allow them to make contributions for the time spent in an excepted indefinite appointment, because at that time, they did not receive retirement coverage under the federal system.

Less than one hundred Metropolitan Park Police and Executive Protection Service officers are affected, to our knowledge. Our amendment would not automatically give them service credit for the time they served the FBI, but merely allows them to contribute, to receive credits, at the same time they would have contributed, had they worked for the FBI under a straight "excepted appointment," which is the procedure used by the FBI now.

OPPOSES BENEFITS CHANGES

I would now like to take the opportunity to comment on the recommendations which the Mayor has made concerning this legislation. First, I must reiterate our opposition to any change in the level of benefits granted current employees. We do not oppose the extended review period proposed by the Mayor. However, we do oppose any change in the earning restoration test to be applied to current members of the force. The Mayor's proposal to extend the earning limitation test beyond age 50 is particularly onerous, since it would severely penalize a disabled officer merely because he became disabled. If a disabled officer had been able to serve out his time on the force, by age fifty he would have had a pension equal to or greater than the pension he received on disability, with no earning limitation.

In regard to the Mayor's proposed changes for new employees, it is our view that these proposals were based upon actuarial logic only, with no consideration for the human suffering these proposals would cause, or the impact that these proposals would have on the efficiency of the police force. For example, in support of the Mayor's proposal to amend the optional retirement formula, the

Mayor agrees that the 3 percent increase after 25 years of service provides "an incentive to postpone retirement." Yet, the Mayor has supported the harshest "incentive" of all to postpone retirement, by supporting the age requirement of 50 years for optional retirement. The financial incentive referred to by the Mayor is essential, for morale purposes if nothing else, if a police officer is now going to be forced to remain on the force until age 50. IBPO Local 442 argues that this proposal of the Mayor does not deserve serious consideration.

CONTRIBUTION FOR SURVIVOR'S BENEFITS

Similarly, the Mayor's proposals concerning contribution for survivor's benefits should also be disregarded. The Mayor has chosen to compare public safety employees to City workers and judges without any regard to the additional hazards that these employees face daily. In almost every case an active public safety employee is more concerned for the welfare of his spouse and children, rather than his own life, and thus would certainly be affected by this proposal. Therefore the Mayor's proposal is a simple effort to take away a benefit to which these public safety employees are entitled, as some small additional compensation for the hazards they face on a daily basis.

While these proposals cause us great concern, the last proposal by the Mayor concerning new employees is the most devastating. My proposing that the minimum payments be reduced for those police officers suffering from a disability, the new administration has ignored the basic intent of the disability retirement system. The system has a dual purpose. First, the system was designed as a crude attempt to compensate an individual for what he has lost as a result of a disability. Secondly, it is intended to provide the individual with an opportunity to adjust to his handicap and to begin a new life for himself. The Mayor's proposal does neither. The floor, rather than being a "serious flaw" as described by the Mayor, is in actuality a guarantee that a disabled officer will have some small measure of financial stability, while he attempts to adjust to his handicap, and possibly searches for a new career. A 15 percent minimum will not accomplish this goal. In fact, 30 percent is too low.

Even a relatively "minor" injury, if permanent in nature, will first of all deprive the individual of an opportunity to work in his chosen career. Second, depending on his skills and qualifications, such a "minor" injury may eliminate any trade job or occupation at which he may have an opportunity to earn a salary equivalent to that which he earned on the Department.

It is important to note that the factors which the Retirement Board are required to look at in determining percentage disability include only whether or not a member can perform "gainful activity," not whether or not he has the capacity to earn a salary equivalent to that which he was earning at the time he became disabled. We recognize that the "gainful activity" standard is less complicated for the Retirement Board to apply, and simplifies the Board's procedures somewhat. However, the minimum disability payment was designed to compensate for the inability of the Board to determine the exact impact of a disability on a member's wage-earning capacity. In sum, a police officer who loses a hand, arm, or leg in a shoot out should not be relegated to the scrap heap and a 25-percent disability payment for the rest of his life.

FUNDING MECHANISM

Our final comments relate to the Mayor's proposed changes to the funding mechanism. We support the Mayor's proposal to determine liability for disability payments by comparison to disability retirement statistics in other major cities. It was neither fair nor reason-

able under the last minute compromise formula reached last session, to compare the costs of disability retirements under this new and old system, since the level of benefits are, in fact, different.

BOARD OF TRUSTEES

We cannot, however, support the Mayor's proposals for a change in the composition of the Board of Trustees. This Board is the one guarantee that exists, that these retirement funds will be handled in a manner which benefits those it was designed to benefit: retired employees.

It is not just taxpayers' money which is at stake here, but employee earnings. The interests of employees in protecting those earnings and the benefits which accrue from them is certainly stronger than the interest some "public" member might have in the management of the fund. This fund must be insulated from political pressures, and the present composition of the Board of Trustees is the only reasonable method by which such insulation may be guaranteed.

ATTACHMENT.—AMENDMENT TO DISTRICT OF COLUMBIA CODE, TITLE 4, CHAPTER 5, POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY

Section 4-521-(15) The term "Government Service" means honorable active service in the executive, judicial or legislative branches of the U.S. Government, including Government-owned or controlled corporations, and Gallaudet College, and municipal government of the District of Columbia. Each employee or member credited with service after July 31, 1920, for which, for any reason whatsoever, no retirement deductions or deposits have been made, shall be allowed credit for Government service performed prior to appointment to the Metropolitan Police Force, to the Fire Department of the District of Columbia, to the U.S. Park Police Force, to the Executive Protective Service, and any officer or member of the U.S. Secret Service Division to whom sections 4-521 to 4-535 shall apply: Provided, that such member deposits with the Collector of Taxes of the District of Columbia, a sum equal to the following percentages of his basic salary received for such service: Provided, this shall also apply to redeposits of any moneys refunded to him for such period of Government service:

	Service period	Percentage of basic salary
Employee.....	Aug. 1, 1920, to June 30, 1926.....	2½
	July 1, 1926, to June 30, 1942.....	3½
	July 1, 1942, to June 30, 1948.....	5
	July 1, 1948, to Oct. 31, 1956.....	6
	After Oct. 31, 1956.....	6½
Member for member service.....	Aug. 1, 1920, to June 30, 1926.....	2½
	July 1, 1926, to June 30, 1942.....	3½
	July 1, 1942, to Aug. 1, 1946.....	5
	Aug. 2, 1946, to Oct. 31, 1956.....	6
	After Oct. 31, 1956.....	7½

Provided further: That if such member so elects he may deposit with the Collector of Taxes of the District the total amount in equal monthly installments not exceeding 24.

The CHAIRMAN. I would like to thank all of you for your testimony. Going to the questions, I would like to pick up where Mr. Markuns left off and ask the other two representatives of organizations whether or not or what is your reaction to the Mayor's proposal that we increase the number of city representatives with a one-third, one-third, one-third formula? If you are not prepared to respond today, you can respond in writing at a later date.

Mr. BRAXTON. In that respect, Mr. Chairman, speaking for the Washington Teachers' Union, we find that the structure represented in the legislation would be appropriate. I would go further and say that, for instance, if we had had such a structure, I am certain we would have done better than the record shows with the custody of the Treasury Department in the handling of the funds. We would have done much better than that. And therefore, it seems to me that there must be this kind of concerted interest and dedication to the handling of that money. And if the money is handled well, Mr. Chairman, the taxpayers will benefit.

The CHAIRMAN. Thank you very much.

Mr. Hoyle?

Mr. HOYLE. Mr. Chairman, I would like to exercise the option of responding to you in writing on this.

The CHAIRMAN. I appreciate that.

Would each of you respond to the question of the issue of eliminating the 1-year grace period before termination of the disability annuity on recovery from disability? As all of you who are here listened to the testimony of the Mayor, he was suggesting cutting off that 1-year grace period and I would like to get your responses. If you are not prepared to respond today, I would appreciate it if you would respond in writing from your respective organizations. But those of you who can respond, I would appreciate it for the record.

Mr. BRAXTON. Mr. Chairman, the Washington Teachers' Union will respond in writing to that comment. And in addition to that, we would like to also include some language with respect to the flexibility which was accorded the Federal Government in terms of its obligation as against that clear obligation imposed upon the city.

The CHAIRMAN. At this point, I think it would be appropriate to indicate that without objection, the record will be kept open for 5 additional days to receive additional comments or statements from all of the affected parties.

Mr. Hoyle?

Mr. HOYLE. Mr. Chairman, I do not quite understand how, administratively, the city can do this. A man has until April 15 to file his taxes. Would it be retroactive back to January 1? It just seems administratively impossible for me to go with this provision.

The CHAIRMAN. The representative of the Brotherhood of Police Officers?

Mr. MARKUNS. Well, I would echo Bill's comment. Also, I would think that perhaps some narrowing of the gap, perhaps to less than 1 year, might be advisable. But I would like to see some concrete proposal from the city; for example, on perhaps entertaining a stay, a request for a stay from an affected employee should he choose, for example, to appeal the finding of the board to the District of Colum-

bit Court of Appeals. If the city were to respond in that fashion, perhaps we could deal with the concrete problems that exist in that proposal.

The CHAIRMAN. All right, let me do this. I would appreciate it if all of you would respond to us on the various proposals raised in the Mayor's statement because these obviously are the most substantial changes that have been suggested. And we would appreciate it very much if you would give us your responses to those recommendations, both in terms of current employees as well as new employees. As well as the issue of representation, so that we can take your responses into consideration as we go forward with the legislation.

Are there any other questions from members of the panel? [No response.]

Well, we thank you very much for your testimony and we appreciate your taking time out from your busy schedules to come before us this afternoon.

The Chair would like to indicate that this hearing will stand in recess until 9:30 a.m., Friday, May 4, 1979, in room 1310, for the purpose of marking up the bill, H.R. 3560.

[Whereupon, at 5 p.m., the hearing was recessed, to reconvene on Friday, May 4, 1979, at 9:30 a.m., in the same place.]

APPENDIX A

THE DISTRICT OF COLUMBIA,
Washington, D.C., April 6, 1979.

HON. RONALD V. DELLUMS,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives,
Longworth Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In an effort to keep you informed of my views on police, firemen's and teachers' retirement reform legislation, I have set forth in the enclosures my current thinking.

My proposal describes what I think needs to be included in the legislation to obtain an adequate level of Federal funding. This point is critical since the funding level supported by the Office of Management and Budget in the 95th Congress did not provide sufficient resources to pay for the benefits package passed by Congress in H.R. 6536. I have also tried to address the other concerns stated by the President when he withheld his approval of H.R. 6536 while maintaining the District's commitment to the men and women currently employed by the City and our ability to recruit qualified persons in the future.

I will be happy to discuss these matters with you at any time.

MARION BARRY, Jr., Mayor.

Enclosures.

ADMINISTRATIVE IMPROVEMENTS IN THE POLICE AND FIRE DISABILITY RETIREMENT PROGRAM

For the greater part of this decade, the District has taken a number of steps aimed at strengthening the effectiveness of the administration of police and fire disability retirements. Changes were made possible through legislative, executive and judicial action, which included a restructuring of the Retirement and Relief Board, the creation of a Casualty Investigation Branch in the Metropolitan Police Department, and stricted interpretation of the disability statutes. These changes have begun to yield positive results, as evidenced by the pattern of disability retirements that has emerged over the last several years:

The annual number of new disability retirements has dropped sharply, from 242 in the peak year of 1969, to an average of less than 100 each year since 1973.

The corresponding percentage of retirements attributable to disability has fallen from 99 percent in 1969 to 44 percent in 1978, the first year that less than half the retirees were awarded a disability pension.

Disability claims for injuries and diseases aggravated, but not caused, by the performance of duty have been significantly reduced. This disability category is generally regarded as the least defensible part of the retirement program because it provides full, tax-free benefits for disabling conditions that cannot be directly attributed to job assignments. In the late 1960's when disability retirements were at a peak, fully four of every five disabilities were awarded under the aggravation provision. Since 1975, however, this category has accounted for less than 25 percent of the disability retirements.

Normal service retirements have increased dramatically both in absolute and percentage terms. From less than 10 service retirements per year in the late 1960's, the number of new service retirees has risen steadily, approaching the 100 mark this year.

ACTIONS DURING THE PAST YEAR

During fiscal 1978, considerable public attention was focused on the administration of police and fire disability claims, partly because several senior public safety officials were awarded disability retirements. Congress addressed itself to issues in the determination of disabilities concentrating on statutory reforms

as well as budget action intended to reduce the number of disability claims. Congress reduced \$10 million from the fiscal year 1979 retirement appropriation request, in an effort to exert budgetary pressure to tighten eligibility standards for disability retirement. Significant changes in benefit provisions were also passed by Congress that would have: (1) denied tax-free annuities for disabilities aggravated, not caused, on the job; (2) allowed disability pensions to be set according to the severity of the disability, in contrast to the current law which treats all cases as 100 percent disabilities, and (3) reduced disability annuities when a retiree earns income from outside employment. These reforms were not signed into law, however, because they were accompanied by a significant Federal financial commitment which exceeded the President's recommendations.

The District has continued its efforts to eliminate abuse of current disability statutes through administrative measures. Actions taken by units having responsibility for disability determinations include the following:

The Metropolitan Police and Fire Departments have agreed to reassign individuals to jobs that can be performed temporarily or permanently with their medical limitations, provided that such reassignments do not jeopardize the overall efficiency of departmental operations. Both departments have also adopted a policy of placing temporarily disabled employees in limited duty assignments for longer than six months provided there is a strong likelihood the individuals will recover from the disability.

The Casualty Investigations Branch since its inception has investigated a total of 539 cases, including 254 cases involving active officers and 285 cases involving retired members. During the past year, the unit conducted 171 investigations of active and retired public safety employees. Investigations led to several cases being referred to the Retirement Board for further review, as well as the initiation of disciplinary procedures against employees allegedly abusing sick leave.

The Board of Surgeons establish explicit medical criteria for determining whether or not disabling injuries and diseases were caused in line of duty. The Surgeons also agreed to refer patients to a larger cross-section of medical specialists than has been used in the past to take advantage of a wider range of medical opinion.

The Retirement Board has made procedural changes designed to provide better information for judging disability claims. The Board will now make its own referrals to outside experts, particularly in cases that are based on highly subjective findings. The Board now requires that any medical reports from an employee's personal physician be filed no later than 10 days before the scheduled hearing date to allow sufficient time for consideration and review. Transcripts are now being made of all hearings, not just those involving a judgment against disability retirement. These records will provide important documentation at the time subsequent medical reviews are performed, to determine whether individuals have recovered from their disabilities.

The combined efforts of all those involved in the retirement process have produced very favorable results over the last year:

The number of disability retirements in 1978 was down 25 percent from 1977, and represents the lowest number of disability cases in at least 15 years.

Revocation procedures were initiated to stop annuity payments to 10 disability retirees, nine of whom had exceeded the earnings limitation, and one had recovered from his disability (the first recovery ever recorded). Actual termination of benefits for most of these retirees will occur in 1979, however, following the one-year grace period required by law.

Twenty-five cases where individuals may have recovered from disabilities have been investigated and are now awaiting action by the Retirement Board.

Disability claims for 20 employees were disapproved by the Retirement Board, four times the number of cases denied in 1977.

The number of personnel on extended sick leave has decreased dramatically, thereby reducing potential disability retirements in the future. Intensive monitoring of sick leave on a regular basis coupled with complete investigations after reaching the 90 day mark have produced a 53 percent reduction in the number of individuals on extended sick leave since July 1978.

Six individuals were dismissed from their departments and two more resigned for alleged sick leave abuses.

RECOMMENDATIONS ON COMPREHENSIVE RETIREMENT REFORM LEGISLATION

INTRODUCTION

Retirement reform legislation has been a high priority of the District of Columbia Government since before the start of home rule. Legislative proposals have been submitted to Congress and the Office of Management and Budget throughout this entire period. Last year, Congress enacted a comprehensive reform program (H.R. 6536) which would have revised public safety pension benefits for both current and future personnel, established actuarially sound pension funds partly financed by Federal contributions, and provided a structure for the management and governance of the city's retirement programs. The President vetoed the measure, however, on grounds that it overstated the degree of Federal financial responsibility for the unfunded liabilities of the city's pension plans, and failed to prevent a recurrence of disability abuses by current employees.

Shortly after taking office in January 1979, Mayor Barry pledged his commitment that pension reform would be an important legislative priority of his administration. He indicated he would examine the entire range of issues surrounding the city's retirement programs, and develop specific proposals that would address the major concerns of the Carter administration, Congress and affected City employees.

This report presents the Mayor's legislative proposals for comprehensive retirement reform. It describes the recommendations the Mayor is making to the Federal government for action by the 96th Congress. It does not contain any administrative changes that are under consideration or amendments that may be proposed to the City Council. Any proposals in these areas will fall under the authority of the Mayor and Council, and thus will be announced at a later time.

With respect to the administration of the police and fire disability program, the Mayor recognizes that actions and procedures of the Police and Fire Retirement Board are critical to the proper functioning of the system. A series of steps have been taken by the City over the last decade to scrutinize disability claims more thoroughly and identify retired members who are no longer disabled under the law. These measures have contributed to a complete reversal of the alarming trend in disability retirements in the latter 1960's. Last year, for example, less than half (44 percent) of new retirements were attributed to disability cases in sharp contrast to almost all retirements (99 percent) in 1969. A recent survey conducted by the Comptroller of the State of New York, in fact, found that performance of duty disability retirements in the District last year ranked below several large cities including New York, Chicago, Detroit, Baltimore, Boston and New Orleans.

Despite these impressive gains, the Mayor is convinced that further progress can be made in strengthening and streamlining the administrative process for reviewing disability claims. Toward this end, he plans to announce shortly a number of procedural improvements that will be implemented in the coming months.

Turning to the legislative area, the Mayor has taken the position that H.R. 6536 provides an excellent point of departure for examining issues in the area of pension benefits, financing and fund managing. He views this as an opportunity to benefit from the considerable amount of staff work and cooperation that went into the development of H.R. 6536 by the Federal and District governments, and affected employee groups. Therefore, he proposes that H.R. 6536 form the foundation for any new initiatives, modifying its provisions only where necessary to fashion a package acceptable to all concerned.

In keeping with this approach, the Mayor is recommending amendments to H.R. 6536 in five specific areas: (1) benefits for current public safety employees, (2) benefits for new employees, (3) division of the unfunded liability, (4) financing the unfunded liability, and (5) fund management and governance. Specific proposals in each of these areas are explained in some detail throughout the remainder of this report.

BENEFIT CHANGES FOR CURRENT PUBLIC SAFETY EMPLOYEES

It is the Mayor's position that benefit changes for those currently enrolled in the pension system should not take away any vested rights, nor drastically modify any reasonable commitments made to current employees when they entered the City's retirement programs. Amendments which are intended to carry out the

purposes of the disability program more effectively or close loopholes in the system deserve serious consideration. However, the District must faithfully honor pension commitments made to present employees, and benefits for employees who become truly disabled should not be diminished.

This policy does not imply that disability reforms cannot be made for current employees. Statutory changes aimed at improving the quality of disability reviews and removing from the disability rolls any person no longer deemed to be disabled are consistent with the Mayor's position on benefit reforms for current employees. In this connection, the Mayor has proposed four additional benefit changes beyond those contained in H.R. 6536:

1. Extend the medical review period from age 50 to age 60 for disabled retirees.—Once a disabled retiree reaches age 50, the present law guarantees full disability benefits for life, despite the fact that the medical condition of an individual may improve and the disability may no longer exist. Currently 68 percent of all disabled retirees on the retired rolls are over age 50, and thus the City has a check on the medical status of only three of every ten disabled retirees. To avoid this problem in the future, the medical review period should be extended to age 60, the age of mandatory retirement from the police or fire departments. Certain provisions are needed to deal with special circumstances of individuals who become medically recovered:

The present law provides that under age 50, medically recovered retirees can be returned automatically to active duty in the department from which they retired. Failure to accept reemployment results in termination of the annuity. Under H.R. 6536, a medically recovered employee would also be eligible for a deferred retirement benefit at age 55, not available in the present system.

Under the Mayor's proposal, a POD retiree who is recovered between age 50 and 60 would have the same options available to younger members, that of returning to active employment, or electing deferred retirement benefits at age 55 (or later if recovery is determined after age 55). In addition, POD retirees who recover after the age of 50 should receive a minimum deferred annuity of 50 percent of final average salary. This provision is needed to assure a reasonable pension for individuals whose disabilities prevented them from earning enough service credits to receive a normal retirement allowance.

2. Eliminate the age 50 provision for the 80 percent earnings restoration test.—Under H.R. 6536 as well as current law, earnings restoration through the 80 percent outside income limitation is not continued after age 50. Beyond age 50, therefore, a disabled retiree is entitled to retain full disability benefits regardless of the amount of additional employment income. Under the Mayor's proposal, age would not be a factor in applying the outside earnings test. Disabled retirees at any age would lose disability benefits if outside income exceeds 80 percent of the salary they would have earned had they remained on the force.

3. Eliminate the one-year grace period before a disability annuity is terminated.—Under current law, a disabled retiree who is found to be medically recovered or to have exceeded the 80 percent earnings limitation continues to draw full disability benefits for an entire year after the Retirement Board determines that the annuity should be terminated. The Mayor holds the view that a retiree who is no longer eligible for disability benefits should be dropped from the pension rolls as soon as practical after the determination is made. Last year, for example, revocation procedures were initiated in 10 cases, but payments could not be stopped until sometime this year. As a result, the City will have paid about \$150,000 in benefits to individuals who are no longer considered disabled under the law. There is no justification for this year-long grace period; it should be eliminated.

4. Percentage of disability evaluation for all employees.—H.R. 6536 would have required only new employees to go through the process of determining a percentage of disability when a disability claim is filed. Thus, the bill set up a dual disability system—the present process for current employees, and a partial disability process for new hires. The Mayor considers this unnecessarily complex and recommends that the Retirement Board establish a percentage of disability rating for current as well as future employees.

Under the Mayor's proposal, current employees found to be disabled would receive the same benefits now available, which in most cases is based on two-thirds of final average salary. While the benefit remains the same, the very process of undergoing a partial disability review could result in fewer disability claims filed, and greater uniformity in disability determination procedures for current and future employees. Furthermore, percentage disability

data on every case would provide hard statistical documentation on the actual severity of the disabilities awarded under the present system. Given the amount of public attention focused on the disability program, this change could greatly discourage employees from actively seeking disability retirements, especially in marginal or poorly substantiated cases.

These changes are designed to make the system more equitable, simplify administration of the disability program, and remove certain financial incentives that make it advantageous for employees to qualify for disability retirement. When coupled with tighter enforcement measures planned in the near future, these changes will help prevent abuses by current employees.

It is the Mayor's belief that before more drastic changes are considered, his proposals should be tested to determine whether abuses will continue and whether problems remain. If abuse persists, however, he will propose additional legislation at the appropriate time.

BENEFIT CHANGES FOR NEW EMPLOYEES

The provisions of H.R. 6536 would have created a new retirement system for police officers and firefighters hired after the bill's effective date. The basic intent of these provisions was to achieve greater comparability between the District's retirement plan and plans in other jurisdictions. The optional and disability benefits for new employees contained in H.R. 6536 would still be competitive with those provided other uniformed employees throughout the nation. Thus, the Mayor supports the reform proposed in H.R. 6536.

Another important element in designing retirement benefits concerns their impact on program operations and their comparability with benefits available to other District employees, especially normal service retirement provisions that are not intended to compensate for the hazards of a public safety career. After reviewing H.R. 6536 from these perspectives, the Mayor recommends four additional changes:

1. *Amend the optional retirement formula.*—The benefit accrual rate should be maintained at a constant 2½ percent per year of service for the entire career, rather than increase to 3 percent after 25 years as under H.R. 6536. This change is intended to remove any financial incentive that an employee might otherwise have to postpone retirement in order to earn significantly higher benefits. With minimum retirement age set at 50 years under H.R. 6536, the benefit formula should not contribute to increasing the average age of the work force beyond that expected as a result of the new minimum age requirement. This proposed change would apply to optional and deferred retirement benefits.

2. *Require retiring employees to participate in the funding of benefits for a surviving spouse.*—When a retiree dies under the current act or under H.R. 6536, benefits are automatically provided to a surviving spouse. Unlike all other City workers, public safety employees do not participate in financing benefits for surviving spouses by making larger retirement contributions during their careers (as judges do) or by taking a reduced annuity during retirement (as civil service and public school employees do). Under the Mayor's proposal, eligibility for post-retirement survivor benefits would be contingent upon the retiree electing a reduced annuity under the civil service formula that applies to the vast majority of District employees. This formula lowers the retiring employee's basic annuity by 2½ percent of the first \$3,600, plus 10 percent of the annuity in excess of \$3,600.

3. *Impose an annuity offset against the salary of a retired employee who is re-employed by the Federal or District governments.*—Under both current law and H.R. 6536, a retiree who holds another job is permitted to keep the entire annuity along with the entire salary earnings. Statutes governing the Federal Civil Service and military systems limit a retiree's total income, including annuity, to the salary of the job for any employment with the District and Federal governments. The Comprehensive Merit Personnel Act retains this provision for Federal and District civilian retirement systems and the U.S. military system. For comparability purposes, the Mayor recommends that sanctions against double dipping should be extended to the police and fire and teachers retirement systems as well.

4. *Reduce the minimum benefits guaranteed under the partial disability system.*—H.R. 6536 provides minimum disability benefits of 30 percent of final average salary in the case of disabilities incurred when an employee is not on duty, and 40 percent for disabilities incurred in line of duty. High minimum benefit levels

such as these seriously undercut the purpose of a partial disability system. Under the H.R. 6536 benefit formula, for example, a 30 percent benefit level corresponds to a partial disability rating of 43 percent, and a 40 percent benefit equates to a 57 percent disability rating. Consequently, an individual retiring with a 10 percent disability rating for a relatively minor on-duty injury would receive the same benefits as an individual who is left 50 percent disabled as a result of an on-duty injury.

The Mayor regards this inequity as a serious flaw in the design of the partial disability system established in H.R. 6536. To narrow the range of possible inequities and at the same time realize more fully the objectives of a partial disability system, the Mayor recommends setting the minimum benefits at 15 percent of final average salary for off-duty disabilities and 25 percent for on-duty disabilities.

DIVISION OF UNFUNDED LIABILITY

At the end of fiscal year 1978, the District's unfunded pension liability was valued at \$2.4 billion for retirement plans covering police officers, firefighters, public school teachers and judges. Strategies for financing long-term commitments of this magnitude do not come easily or inexpensively. Although there are many approaches for making these systems financially solvent, a general consensus has been reached on at least one essential part of the solution: responsibility for meeting this liability ought to be shared jointly by the Federal and District governments. A major policy question, therefore, centers around the division of that responsibility between the two units of government.

In H.R. 6536, Congress took the position that the Federal government should be liable for pension obligations attributed to employees who retired before home rule, a liability estimated last year at approximately \$900 million. The Office of Management and Budget did not directly address the question of assuming a specific portion of the total liability. Instead, the Administration supported the view that the Federal government should assist the District in making the transfer to an actuarially-funded method of pension financing. This approach would have obligated the Federal government to payments of \$462 million over 25 years.

The Mayor's position is that neither approach equitably fixes accountability for the actions which produced nearly \$2½ billion in unfunded pension liabilities. Before home rule, the Federal government made virtually every decision affecting the District's pension obligations, including the benefits, financing provisions, investment policies for the teachers and judges funds, and number of plan participants. In contrast, the involvement of District officials was limited chiefly to administration and financing of benefits as required under public law. Discharging even these limited responsibilities was often restricted by decisions handed down by Federally appointed judges over the years, which interpreted District retirement statutes liberally and gave employees the benefit of doubt, particularly in awarding police and fire disability benefits. The entire legislative history of the City's retirement program suggests that the critical financial condition of these systems could largely be attributed to policies adopted by the Federal government.¹

Against this backdrop, the Mayor's position on dividing unfunded liabilities is that the District and Federal governments should be held accountable for the actions their officials have taken or had authority to take. For the City's party, this authority has been limited by Congress to: (1) determining eligibility for disability benefits as provided by law, and (2) establishing retirement benefits for new employees hired under the City's independent personnel system. The Mayor, therefore, proposes that the District assume responsibility for:

- a reasonable share of the liability for disabled retirees;
- a reasonable share of the liability for disability benefits accrued to date for employees on the workforce as of home rule;
- the accrued liability for new employees added to the payroll since home rule; and
- future benefit accruals earned by all police officers, firefighters, teachers and judges.

¹ A historical analysis of the City's pension plans was prepared by the Congressional Research Service of the Library of Congress. See the attached staff report by Raymond Schmitt and Stuart Schnell, "Legislative History of the Financing of the District of Columbia's Policemen, Firemen, and Teacher Retirement System" (March 18, 1976).

In every other area, Federal decisions on benefits and financing statutes have effectively removed all discretion from the District. As a result, the Federal government should take responsibility for:

- optional and survivor benefits for all retirees;
- optional and survivor benefits accrued to date for employees hired before home rule;
- a reasonable share of the liability for disability retirees; and
- a reasonable share of the liability for disability benefits accrued to date for employees hired before home rule.

An important feature of this proposal is its recognition that the District's high number of police and fire disability cases can be attributed to many factors including the liberal benefit structure, past Court rulings, and the City's administration of the program. The President's veto message on H.R. 6536 also made this point. Since it is unknown how much each of these factors contributed to the size of the disability rolls, however, scientific methods do not exist for precisely splitting the liability for disability benefits between the Federal and District governments.

To avoid inconclusive debate, the Mayor proposes that the Federal liability be based on the difference between the District's disability experience and the average disability rate of major U.S. cities. This recommendation should not be construed as an acceptance on the part of City officials that administrative procedures account for the entire difference in disability rates between the District and other major cities. Instead, it represents an approach for resolving a complex issue along relatively objective and understandable lines.

Retirement statistics for 17 cities indicate that disability retirements make up 20 percent of police and fire pensioners compared with 81 percent for the District, which puts the District's disability rate 60 percentage points above the national average. Under the proposed allocation formula, therefore, 60 percent of the liability for disability benefits would be charged to the District with the remaining 40 percent assigned to the Federal government.

POLICE AND FIRE RETIREMENT ROLLS IN SELECTED CITIES

[End of fiscal year 1976]

City	Total retirees	Percent, normal service retirees	Disability retirees	
			Number	Percent
Atlanta.....	491	74	130	26
Baltimore.....	1,271	43	724	57
Chicago ¹	1,716	84	270	16
Denver ²	321	40	192	60
Detroit.....	4,320	90	447	10
Indianapolis.....	928	82	164	18
Houston.....	637	63	235	37
Kansas City.....	399	87	50	13
Los Angeles.....	5,481	81	1,062	19
Louisville.....	506	73	139	27
Minneapolis.....	697	78	152	22
New Orleans ²	606	91	53	9
New York.....	15,601	81	3,027	19
Pittsburgh.....	1,131	84	186	16
San Antonio.....	292	79	61	21
St. Louis.....	1,160	68	366	32
Seattle.....	958	58	405	42
Total all cities (except District of Columbia).....	36,516	79	7,663	21
District of Columbia ³	3,633	19	2,935	81

¹ Fire only.

² Police only.

³ Includes Federal police forces that are members of the District police and fire retirement system.

Source: Finances of employee-retirement systems of State and local governments in 1975-76. G.F. 76, No. 2, table 4. Bureau of the Census, U.S. Department of Commerce.

FINANCING FEDERAL AND DISTRICT LIABILITIES

Under H.R. 6536, the Federal liability of \$900 million was to be financed in 25 annual installments of \$65 million for a total cost of \$1.625 million. The District's portion of the unfunded liability was permitted to grow with inflation until the turn of the century (2003) after which the City would pay full interest charges to prevent further increases in liability.

The Mayor is sensitive to the significant effect the method of financing the Federal liability has on budgetary outlays. Other ways of meeting this liability should be explored to reduce the total cost to the Federal government. Among the options that might be discussed are:

- shorten the amortization period and reduce the amount of interest costs associated with financing the liability over an extended period;
- permit the District to transfer debt service payments on outstanding Treasury loans to the City's retirement funds; and
- provide interest-free loans to be invested by the City on condition that the proceeds would be deposited into the retirement funds.

A combination of these approaches might also be considered to lower total outlay requirements.

With respect to the District's liability, the Mayor is committed to an actuarially sound financing program that would put an end to rapid escalation of unfunded liabilities. The precise form and specific timetable for implementing a rigorous advance funding system, however, are contingent upon the final decisions on benefits and the Federal share of total liabilities. Thus, before developing a definite financing schedule, it is first necessary to determine whether a consensus can be reached on benefit changes and Federal funding support.

Finally, a high priority should be placed on removing the complex penalty provisions contained in Section 145 of H.R. 6536. This section was intended to give the District strong financial incentives to reduce the cost of disability retirements. However worthwhile the objective, the penalty formula was exceedingly complicated and did not guarantee that penalties would only be imposed if the District failed to bring disability claims under control.

The Mayor recommends that Section 145 be dropped from the bill for two reasons: (1) the penalty clause would probably not have achieved its objective, and (2) the provision is not needed since the benefit reforms proposed by the Mayor provide a more effective means of preventing recurrences of disability abuse.

FUND MANAGEMENT AND GOVERNANCE

H.R. 6536 would have created a twelve member board of trustees to oversee the operation and investment of the police and fire fund, teachers fund and judges fund. The board would be responsible for controlling fund assets, developing fund investment policies, setting rate of return objectives, and determining the amount of the City's annual appropriation requirement based on funding formulas in the bill. Board members would carry fiduciary responsibility for the funds and would be subject to stringent disclosure and conflict-of-interest standards.

The only City government representation on the board would be the budget director who would serve in a nonvoting ex officio capacity to advise the board but not participate in board decisions. Six of the eleven voting members (55%) represent participants in the system (one active and one retired employee from each of the police, fire and teacher ranks). The remainder of the board would be appointed as "public" members by the City Council.

The Mayor supports the fiduciary and conflict-of-interest provisions, but questions the need for and composition of the board of trustees. This position is based on the following grounds: few private plans have such a board; the bill adequately protects employee interests through disclosure requirements, fiduciary responsibilities, and investment limitations; and District taxpayers—who underwrite the financing of the plan—are under-represented. OMB supported the District position on this issue; Congress, however, retained the board structure.

In view of strong sentiment in Congress on this issue, the Mayor supports a board mechanism for fund management, but its composition should be restructured to provide better balance between employee interests and taxpayer interests. The recommended objective for assigning board slots is to equalize voting representation for employees, the City government, and the public at large. To accomplish this objective, the following approach is recommended:

- retain the same number of employee representatives (6) but give each a $\frac{1}{2}$ vote, bringing the total number of employee votes to three.

- add two city officials to the one already on the board, and give each City representative one vote.

- reduce the number of "public" members from 5 to 3, each with one vote.

These modifications leave the board with the same number of members as under H.R. 6536, but would limit the voting strength to nine votes equally balanced

among plan participants (3 votes), City government representatives (3 votes), and the general public (3 votes). In contrast to the board under H.R. 6536, an important advantage of this proposal from a fund governance standpoint is that public members hold the deciding votes on any controversial questions. Should a particular issue be evenly divided between employee and City government interests, for example, a majority of public members would be needed to swing the balance of votes toward either of the conflicting viewpoints. This approach is widely recognized as a reasonable and effective means for resolving differences in policy or operational issues, and as such, is the basis for the composition of retirement boards in state and local governments across the country.

APPENDIX B

STATEMENT OF MAX J. KRUPA, METROPOLITAN POLICE OFFICIALS ASSOCIATION RETIREMENT COMMITTEE

Mr. Chairman and members of the committee, I appreciate the opportunity to express the views of the members of the Metropolitan Police Officials Association relative to the provisions of H.R. 3560, a bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers and judges of the District of Columbia and to make certain changes in such benefits.

I would first like to note that the Metropolitan Police Officials Association is composed of all officials of the Metropolitan Police Department with the rank of lieutenant and above. Presently 248 of the 265 active officials are members of this association, and our membership represents a combined total of over three thousand years of law enforcement experience in this city.

Mr. Dellums, we praise the interest and concern your committee is displaying in the financial problems currently facing the various public employees' pension systems in the District of Columbia and the efforts that each one of you are expending to seek fair and sound solutions.

This testimony alone cannot begin to display the appreciation for the keen interest and concern over this matter exhibited by all members with whom we have had contact. We are also aware that many of your colleagues shares the same concern on this vital issue and will take an active role in attempting to resolve the same in this session of Congress.

Our association has worked closely with many of your staff members for the last several years and we have a clear picture of the magnitude of the problem.

We realize that the problem of funding public employee pension systems is not confined to the District of Columbia. It is a problem national in scope and affects all levels of government.

On the national level, this need (for actuarially sound pension systems) was identified by the Comptroller of the United States in his report to Congress titled, "Federal Retirement Systems: Key Issues, Financing Data, and Benefit Provisions (Report No. B.179810)." The following excerpts from this report clearly define part of the problem on the national level:

"No uniform practices or principles exist on financing Federal retirement systems. Some systems are financed on a contributory basis and some on a non-contributory basis; some provide for fully funding benefits as they accrue; some provide for partial funding; and others are completely unfunded."

"Articles in the Wall Street Journal, U.S. News & World Report, and other publications have clearly set forth the consequences that many major cities will have to face in future years if they continue to ignore this problem of unfunded or partially funded retirement systems."

"A recent article in the Wall Street Journal noted that: Traditionally, a generous pension system was a public employee's sop for passing up the better pay and social security benefits offered by private industry."

An article in the U.S. News and World Report stated: "Public employees' rich plans developed, experts say, because city officials often found it easier to yield to pension demands by city workers than to pay higher wages or endure strikes. Many city officials preferred pension hikes because they saw that, unlike wage increases, pensions did not have to be paid, or even provided for, immediately." But as we all know, sooner or later the piper must be paid and that moment has now arrived.

On the local level, the Nelsen commission report warned of the dangers of not establishing funding for the various pension systems in effect in the District of Columbia.

We believe there is no room for argument on this issue. "Pay as you go" from general revenues is a dangerous and unacceptable method of funding. Pension systems must be funded on an actuarially sound basis, and we wholeheartedly pledge our total support to the accomplishment of this objective.

While no employee group relishes any diminution or reduction of benefits, our association realizes the enormity of the unfunded obligation and the concomitant necessity to minimize future obligations to the maximum extent necessary. In this context, H.R. 3560 establishes new criteria for future retirement eligibility as well as other dollar saving mechanisms. This bill also incorporates a few changes which will affect current employees.

Further we recognize that the provisions of this proposed legislation duplicate those of H.R. 6536 which was vetoed at the close of the last session of Congress. My association feels that last year's bill and now H.R. 3560 represent the only viable solution to a complex, confusing and potentially dangerous situation.

In closing, we would like to state that the police and fire departments of the Nation's capital have served this community well, in a professional manner, for many years. They have encountered every conceivable situation—situations which most public safety organizations never have, and probably never will, experience. I think that this was most recently highlighted during the farmers demonstration here in D.C.

In this regard, we have an impressive list of accomplishments to our credit—accomplishments unmatched by any other public safety agency in the world. Innumerable instances of personal heroism and sacrifice have been documented. We know that Congress and the citizens of this country are aware of these facts.

I could have appeared here today with charts and figures and tried to treat this issue as any other type of testimony. However, I chose not to for one reason, and that is that those of us very close to this bill constantly think in terms of dollars needed and percentages of retirement, but let us never become so involved that we forget about the people affected by this type of legislation. Due to the current state of the economy pay raises are not able to keep up with the rate of inflation and when any of our members are out there at 2:00 a.m. arresting a robber or diving from a bridge to save a person who has attempted suicide, perhaps the only security he has is knowing that should he die his family will be taken care of, and if God is willing and he lives through his active service that he can retire and then live like an average person.

Consequently, we feel confident that the Congress of the United States will institute every resource at their command to resolve this critical problem as quickly and as fairly as it is in their power to do so. We are not responsible for this financial dilemma.

Finally, the Metropolitan Police Officials Association wishes to commend each member of this committee and your staff members for the time, effort and concern you are applying to this vitally important issue.

APPENDIX C

STATEMENT OF JOHN T. FERGUSON, CHAIRMAN, LEGISLATIVE COMMITTEE, POLICE ASSOCIATION OF THE DISTRICT OF COLUMBIA

Mr. Chairman, members of the committee, we appreciate this opportunity to submit our views to the committee concerning the Police and Firemen's Retirement and Disability Act.

For the record, my name is John Ferguson. I am chairman of the Legislative Committee for the Police Association of the District of Columbia. I am a sergeant in the Metropolitan Police Department, assigned to the Seventh District.

The proposed changes in the retirement system have brought about much public attention over the past three years and has caused much concern from the District government, the city council and the Congress of the United States. These proposed changes have greatly discouraged many young officers from continuing a career on the Metropolitan Police Department and have caused many of our seasoned veterans to apply for retirement earlier than they would have under other conditions.

We realize that the system must be equitable and financially sound, both for the District and the men and women who make up the police and fire departments.

We support much of H.R. 3560, as it is written. However, page 90, line 1, which calls for thirty-six consecutive months of public service and page 90, line 10,

which calls for thirty-six months of police service, we would like to see remain at twelve months.

We further support H.R. 3560. In particular, we endorse sections 206—survivor annuities, section 207—deferred annuities, section 208—service credit, and those other annuities pertaining to dependents of active and retired officers.

We also concur with the mayor's position on vested rights for police and firemen. To include future employees. However, where the mayor recommends that the medical review period be changed from 50 years to 60 years of age for disabled retirees, this is not acceptable. He has stated that officers should not be given an incentive to stay on the job past 25 years with a higher percent annuity as an incentive pay. We feel that any injured officer should not be required to be brought back on the job with less than full job capabilities. At the same time he wants to return to the job those officers past 50 years of age with medical problems.

We further recommend that any reference to income be made to salaried income from employment, and that the age be retained at 50.

With reference to the 1 year grace for determination of disability annuity, an officer who is required to return to full duty status should be given a reasonable time to return to his department, and not be subject to an immediate penalty.

As for percentage of disability evaluations for employees, we support those provisions in H.R. 6536 and the current bill, H.R. 3560. The tighter enforcement measures for present and future employees, will prevent abuses of the disability retirement as are being introduced in the present bill.

The high risk factor of police and fire duties are not acknowledged by the mayor in his recommendations. Normal service employees are not subjected to physical and mental abuses as are public safety career workers. There is no other occupation in the public or private sector where an employee must face life or death type situations as a day to day routine.

The major's recommendation as to percentage for partial disabilities, for public safety personnel is grossly out of line. We must first consider the practicality of a person obtaining other gainful employment. We feel that percentage of disability less than 40% should only be considered, should the retiree obtain other forms of gainful employment.

The police association supports H.R. 3560, the funding and recommended changes in our retirement system, except for the aforementioned proposals in the bill and those recommendations by the mayor.

We thank you for your consideration and we are available for questions at this time or at a future time, should you desire.

APPENDIX D

FIRE FIGHTERS ASSOCIATION,
DISTRICT OF COLUMBIA,
Washington, D.C., May 3, 1979.

HON. RONALD V. DELLUMS,
*Chairman, Subcommittee on Fiscal Affairs and Health,
Longworth House Office Building, Washington, D.C.*

DEAR CHAIRMAN DELLUMS: In response to your request for our comments on the recommendations of Mayor Barry concerning the Police, Fire, Teachers and Judges retirement reforms we submit the following remarks.

The Mayor has suggested four additional reforms for incumbent employees with which we can not agree not only on the basis that existing benefits have already been comprised but also because the proposals are unnecessary or unenforceable. Two of his recommendations deal with revoking disability benefits beyond age 50 and it is our opinion that these provisions would be punitive rather than providing administrative control. Placing employees back into the uniform force beyond age 50, particularly for those members who have not become ranking officers, is not practical and would adversely affect departmental efficiency. Attempts to successfully place rank and file employees in this age group would be difficult if they maintained continuous employment but virtually impossible with any significant break in service. Other options available to these employees suggested by the Mayor pose equally inequitable and demoralizing relationships between the then current employees and those being pressed back into the service. The proposal also totally disregards the humanistic consequences of a disabling injury. The every day restrictions imposed by

a disability injury can not be compensated in monetary terms but to live under the threat of reprisal after reaching the age of optional retirement is levying an unfair burden on those who were injured in the service of the community. It must also be kept in mind that firefighting is the most hazardous occupation in the country and firefighters sacrifice 8 to 10 years of their normal life expectancy as a result of their employment. Our Association has always maintained that even if we cannot extend the life expectancy of our members we feel they are entitled to the same number of years in retirement as their civilian counterparts. It is our opinion that at age 50 the restrictions on annuitants should be suspended.

Another proposal of the Mayor was to remove the one year delay in revoking disability benefits after medical recovery or the restoration of earning capacity. It seems administratively impossible to revoke an annuity with less than a one year delay. This one year period would allow for an appeal to a ruling of revocation and the alternative would be to retroactively discontinue annuities and the resulting administrative quagmire of collecting or refunding payments erroneously paid or collected.

The final recommendations by the Mayor concerning current employees involves computing the percentage of disability for current employees although this computation allegedly would not affect their annuity. We fail to see the rationale behind this proposal and are at a complete loss in understanding why Congressional action is necessary to permit this type determination. If this type computation has a useful purpose we see no prohibition for the City to do so at will. To include the proposal as part of the legislation would lend itself to future interpretations that could cause confusion as to the intent of the Congress. Failing any rationale for this recommendation we see no need for its inclusion.

The Mayor also has recommended four additional changes for future hires that would bring our retirement program more in line with the system that governs most other District employees. We have never considered our profession comparable to G.S. employees and the Mayor's proposal ignores other portions of the G.S. system that we have never enjoyed. For example, and notwithstanding the lack of comparison in job function or hazards, firefighters work 488 hours per week and do not receive night differential nor Sunday premium pay as do G.S. employees. These are insignificant disparities in comparison to the magnitude of the retirement problems but they offset the Mayor's rationale that there is a need to bring the different systems closer in line. More significantly it is interesting to note that under the G.S. systems a maximum disability annuity of 75 percent is provided which exceeds that presently offered in our system. The proposed optional retirement formula would create a disparity of $\frac{1}{2}$ per year for service over 20 years in annuities between present and future employees. Any duality in the retirement program should be avoided if possible and any necessary disparity should be minimized. We can foresee serious moral problems in any dual system and the savings gained by implementing this recommendation appear insignificant in comparison to the adverse effects.

We also observe that the Mayor has proposed a lower disability rate for the uniform forces than other District employees. Considering the hazards of the various occupations this proposal seems to defy all logic. Perhaps it is economically prudent but from a realistic and equitable viewpoint it is seriously lacking in merit and should be rejected.

We found the Mayor's remarks concerning the funding aspects of the legislation somewhat confusing. We recognize the funding methods are beyond our area of competence but we must take strong exception to the proposed restructuring of the Retirement Board. The experience of New York City mandates that retirement funds should be as well insulated from governing officials as possible and there is no reason to think the District would be more immune to this inherent danger. Further more it is the employees who will personally feel the impact of actions of the Board and they have their personal funds intrusted to it. These factors dictate a genuine interest in proper fund management and the record shows that it has been the employee members of the present retirement board that have been more prudent than non-employee members. The citizens also have a keen interest and their representation is essential and properly guaranteed in the existing legislation. Under the Mayor's proposal, although it appears to divide responsibility into equal thirds, it can be envisioned that members from

one group, who may qualify to serve another group as well depending on whom they claim to represent, could take control of the Board. As originally drafted the Board would have the responsibility and controls that would be necessary and we are strenuously opposed to the recommended change.

Our Association can not support the Mayor's recommendations and are somewhat surprised that these proposals are being offered by the City. The effect of these proposals would impact most seriously on new employees and with the new residency requirements for hiring and in view of the overt attempts at increasing the recruitment of women the recommended modifications would adversely impact on these groups whom the City has pledged to support. It is impossible to recognize any monetary advantage to the City's recommendations in the absence of any financial impact statement but on the surface the problems that would arise seem to overshadow any potential savings. In our view the recommended modifications to the legislation proposed by the Mayor lack substantial merit and we urge they not be incorporated into the legislation.

Sincerely,

WILLIAM N. HOYLE, *President.*

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Financing Retirement Funds for Police, Firemen, Teachers, and Judges

Markup by Subcommittee

FRIDAY, MAY 4, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISCAL AFFAIRS AND HEALTH,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:55 a.m., in room 1310, Longworth House Office Building, the Honorable Ronald V. Dellums (chairman of the subcommittee) presiding.

Present: Representatives Dellums, McKinney, and Fenwick.

Also present: Robert Brauer, staff assistant; Marilyn Elrod, subcommittee staff; Robert Cover, Office of House Legislative Counsel; Edward C. Sylvester, staff director; Elizabeth D. Lunsford, general counsel; James T. Clark, legislative counsel; Barbara C. Washington, minority chief counsel; Harry M. Singleton, deputy minority counsel; and Alfred S. Frank, assistant counsel.

The CHAIRMAN. The Subcommittee on Fiscal Affairs and Health will come to order.

Today, we mark up the bill, H.R. 3560, the District of Columbia Retirement Reform Act. On Wednesday, we heard testimony from the Mayor, the Chairman of the City Council or his representative, the Treasury actuary, and representatives of employee groups. All attested to their support of H.R. 3560, although each had some suggestions that they felt would "improve" the legislation.

The facts are clear. It is the responsibility of Congress and the Federal Government to contribute to the unfunded pension funds of the District of Columbia employees: Teachers, judges, police officers, and firefighters. We are attempting, with the bill and the amendments before you today, to further address the issue of District responsibility for the administration of the retirement and disability funds, as well as to take into account the comments made by the witnesses on Wednesday.

AMENDMENTS TO H.R. 3560

After careful consideration and lengthy discussion with all the parties involved, these amendments before you reflect the cooperation

and compromise of the groups affected. I greatly appreciate their assistance and commitment to this legislation.

I am presenting for your consideration 10 amendments to this bill. We will consider them in order, and staff counsel will begin by reporting the amendment designated Amendment No. 1, Change in Trigger Mechanism.

[The above-referred-to amendment follows:]

AMENDMENT NO. 1—NEW FORMULA FOR REDUCTION IN AUTHORIZED FEDERAL CONTRIBUTION IN THE EVENT OF EXCESSIVE POLICE AND FIRE DISABILITY RETIREMENTS

Strike out section 145 of the bill (page 41, line 1 through page 45, line 18) and insert in lieu thereof the following:

"REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE NUMBER OF POLICE AND FIRE DISABILITY RETIREMENTS

"SEC. 145. (a) After January 1 and before March 1 of each year beginning with calendar year 1982 and ending with calendar year 2003, the Comptroller General of the United States shall—

"(1) Determine the percentage of the total number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired, died, withdrew by taking out a lump sum payment, or otherwise separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during the preceding calendar year who retired with a disability under subsection (f) (1) or (g) (1) of the Police and Firemen's Retirement and Disability Act;

"(2) Determine the percentages of the total number of officers and members of the police and fire departments of each of the five largest police and fire departments combined of cities in the United States (based upon the most recent figures of the Bureau of the Census and excluding the District of Columbia) who retired (or otherwise separated while eligible to retire) during the preceding calendar year who retired with a disability; and

"(3) State whether the percentage determined under paragraph (1) is greater than the average of the percentages determined under paragraph (2) and, if the percentage determined under paragraph (1) is greater than such average, what the difference between the two is.

The Comptroller General shall report the determinations and statements made under paragraphs (1) through (3) for any year to the Board not later than March 1 of such year.

"(b) The Board and the Comptroller General shall each transmit a copy of each report under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(c) For the fiscal year beginning in a calendar year in which the report of the Comptroller General under subsection (a) includes a statement under paragraph (3) of such subsection that the percentage determined under paragraph (1) of such subsection is greater than the average of the percentages determined under paragraph (2) of such subsection, the amount authorized by section 144(a) (1) to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for such fiscal year shall be reduced. Such reduction shall be in the amount equal to the product of (1) the amount specified in such section, and (2) the difference between the percentage determined under paragraph (1) of subsection (a) and the average of the percentages determined under paragraph (2) of such subsection, as stated by the Comptroller General under paragraph (3) of such subsection."

Conform the table of contents accordingly.

Mr. BRAUER. Amendment No. 1, Mr. Chairman, is an amendment to encourage better management of the fund.

Last year's bill reduced the Federal contribution to the police and fire fund if the cost of the benefit package under the conference report exceeded by 2 percent the cost that would have been obligated under the Senate bill. This amendment proposes to take the average percentage of disability retirements for the 10 largest U.S. cities during the preceding calendar year and compares this with the District's percentage. If the District's percentage of disability retirement is higher than the 10-city average, then the Federal share will be cut by a percentage equal to the difference. That is, if the 10-city average is 24 percent and the District of Columbia rate is 28 percent, the Federal contribution would be cut by 4 percent.

The CHAIRMAN. Is it counsel's thought that this mechanism is much fairer than the mechanism that we agreed upon in the conference report last year with Senator Eagleton?

Mr. BRAUER. Mr. Chairman, the concern with the language in the conference report—House Report 95-1713 on H.R. 6536—was that 2 percent was within the possibility of actuarial differences and might not in fact reflect good or bad management, and this is a fair indication of effective management, still putting a burden on the District.

The CHAIRMAN. Is there any discussion?

Mrs. FENWICK. Mr. Chairman, could I ask. Why would we choose the 10 largest cities and not 10 cities of comparable size? I would have thought that there might be some differences if you are going to take Los Angeles, New York, and Philadelphia.

Mr. BRAUER. We have a police department and a fire department that is larger than the comparable size because of the Federal requirement.

Mrs. FENWICK. I am asking about the disability. Why did we take the 10 largest cities, which presumably have difficulties or organization and administration that would not be in a city of this size?

Mr. BRAUER. We were tending to try to reflect a larger police force, and that is why we took those 10.

Mrs. FENWICK. So, it does not go on the population of the cities, it goes on the numbers in the police force?

The CHAIRMAN. Would the gentlewoman yield for a moment? From the standpoint of history, the U.S. Congress and the President of the United States imposed upon the residents of the District of Columbia 2,000 additional police officers, far exceeding the necessary number of police officers for a city of equivalent size. This means that comparing a city of equivalent size does not take into consideration the several thousand police officers that go beyond that. So we have to find comparable cities, which means larger cities.

Mrs. FENWICK. I understood that, Mr. Chairman. Therefore, I changed my question, having understood that, to "police forces of similar size," rather than "inhabitants," since there is a peculiar con- striction upon the city of Washington.

Would that be a proper basis for comparison, in your opinion, Mr. Chairman, if we had "police forces of similar size"? I would like to offer that as an amendment.

The CHAIRMAN. I do not see where that is a problem. Does counsel want to comment on that?

Mr. BRAUER. Without the figures in front of us, Mr. Chairman, I think it is difficult for us to know whether that is comparable or not, or what we might lose or gain. The 10-largest-city average was, I think, our reflection that, perhaps contrary to the distinguished Congressperson's comment, we believe they would be in fact better administering.

The CHAIRMAN. We will suspend while the gentlewoman obtains the facts.

[The markup was suspended temporarily.]

Mrs. FENWICK. The answer is that the District of Columbia Committee did not submit this in their request. There is, however, a total of some \$487 million, which includes \$325 which the District of Columbia Committee did request for their payment to the city, and another \$100 and some for loans. So, there is a total of \$487 million in the request from this committee. Of course, the pension cost that we are talking about is far beyond that, is it not?

The CHAIRMAN. Not on a per-year basis, Mrs. Fenwick. We are not appropriating \$1.6 billion in fiscal year—

Mrs. FENWICK. I know that. But if we have a \$325—

The CHAIRMAN. \$65 million, approximately. Second, as you know, we go through the budget process a second time. This is simply the first round of the budget process. Once this legislation clears this committee, we certainly can add an amendment to the second budget resolution. There is ample time, it seems to me, for us to be able to put these figures into the fiscal year 1980 budget.

Mrs. FENWICK. I am anxious to join, Mr. Chairman—

The CHAIRMAN. I hope so.

Mrs. FENWICK. I would like to just ask, is the \$65 million what we are now talking about in this bill; is that right?

The CHAIRMAN. \$61.55 million.

Mrs. FENWICK. That is included, then, in the \$487 million?

The CHAIRMAN. I do not think it is. The Chairman would yield to the staff director.

Mr. SYLVESTER. The \$65 million was included in our first submission to the Budget Committee.

Mrs. FENWICK. That figure that they now have of \$487, that would be included in there?

Mr. SYLVESTER. Yes.

Mrs. FENWICK. Then I will be happy to vote for it. Thank you.

Mr. BRAUER. Just a point of clarification, Mr. Chairman. The city of Washington, D.C., it is my understanding, has the fifth largest police force in the United States. That would put it in the middle between 1 and 10, and it would seem to me that it would allow a very representative view to be encompassed in the amendment that the chairman is offering.

The CHAIRMAN. The Chair appreciates that explanation. I would simply say to the gentlewoman that if the gentlewoman wishes to offer an amendment to make it correspond to the number of the force, then offer it and we can vote it up or down. My thought would be that the statement inherent in the amendment is adequate, and it deals with the situation. We at least have some figures upon which we can make an intelligent judgment. I am not sure whether I or the staff can

respond at this point to what specific ramifications would occur as a result of your particular amendment.

Mrs. FENWICK. Suppose I then offer that it read on line 4 of page 2, "to determine a percentage of each of the five largest police forces in the United States." I believe that Washington, D.C., has the fifth largest.

Mr. BRAUER. Yes, ma'am.

The CHAIRMAN. Is there any discussion?

[No response.]

The CHAIRMAN. All in favor of the amendment, signify by saying "Aye."

[Chorus of "Ayes."]

The CHAIRMAN. All opposed?

[No response.]

The CHAIRMAN. The amendment is agreed to. So ordered.

Amendment No. 1 is before us, as amended by the amendment from the gentlewoman from New Jersey. All in favor of amendment No. 1 signify by saying "aye."

[Chorus of "ayes."]

The CHAIRMAN. All opposed?

[No response.]

The CHAIRMAN. The amendment carries.

Amendment No. 2, designated as "Administrative Improvements."

[The above-referred to amendment follows:]

AMENDMENT No. 2—IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

Pages 128, after line 2, insert the following new section:

"IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

"Sec. 213. Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (as amended by section 204 of this Act) is further amended by adding at the end thereof the following new paragraphs:

"(6) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performance of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

"(7) (A) In making determinations under this subsection and under subsection (f), the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of this Act.

"(B) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of subparagraph (A). The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such subparagraph.

"(C) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual."

Conform the table of contents accordingly.

Mr. BRAUER. Mr. Chairman, this amendment takes notice and encourages the attempts that the District has already made to tighten disability awards. It does this by doing two things: First, requires the Mayor to promulgate regulations providing explicit written standards for disability awards; and two, requires the Mayor to promulgate regulations providing for the widest possible use of outside medical advice, but would prohibit these regulations from being subject of an awards appeal.

The CHAIRMAN. Is there any discussion? (No response.)

Amendment 2 is before us. All in favor of amendment No. 2, defined as "Administrative Improvements," will signify by saying "aye."

[Chorus of ayes.]

The CHAIRMAN. All opposed?

[No response.]

The CHAIRMAN. The amendment carries.

The clerk will report amendment No. 3, referred to as "Elimination of the One-Year Grace Period for Cutoff of Annuity for Recovery From Disability."

[The amendment referred to follows:]

AMENDMENT NO. 3—ELIMINATION OF 1-YEAR GRACE PERIOD BEFORE TERMINATION OF DISABILITY ANNUITY ON RECOVERY FROM DISABILITY

Page 100, line 19, strike out "one year from" and insert in lieu thereof "on".

Page 100, line 21, strike out "one year" and insert in lieu thereof "45 days".

Mr. BRAUER. Mr. Chairman, amendment No. 3 is a reaction to a request from the Mayor in his testimony before this subcommittee. It eliminates the 1-year grace period for cutoff of annuity after recovery from disability. The amendment eliminates the 1-year grace period that the employees now have after the determination has been made that they are recovered from their disability. The city is allowed to determine disability annuity from the date of medical examination and from showing recovery or 45 days from the date of determination of restoration of income earnings.

The CHAIRMAN. Is there any discussion on amendment No. 3?

[No response.]

The CHAIRMAN. If not, all those in favor of amendment No. 3 will signify by saying "aye."

[Chorus of ayes.]

The CHAIRMAN. All opposed?

[No response.]

The CHAIRMAN. The amendment carries.

The clerk will report amendment No. 4, the requirement that data on the percentage of disability be computed for current employees.

[The amendment referred to follows:]

AMENDMENT NO. 4

Page 45, after line 18, insert the following new section (and redesignate the following section accordingly):

"DETERMINATION OF PERCENTAGE OF DISABILITY FOR CURRENT EMPLOYEES WHO APPLY FOR DISABILITY RETIREMENT

"SEC. 146. (a) Whenever during calendar year 1980 or any subsequent calendar year through calendar year 2002 an officer or member of the Metropolitan Police

force or the Fire Department of the District of Columbia who first became such an officer or member of such force or department before the end of the ninety-day period beginning on the date of the enactment of this Act completes five years of police and fire service (as determined under subsection (c) of the Policemen and Firemen's Retirement and Disability Act) and retires (or applies for retirement) under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with the regulations promulgated by the Mayor in accordance with subsection (g)(5) of such Act, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

"(1) the nature of the injury or disease;

"(2) the percentage of impairment reported pursuant to the preceding sentence;

"(3) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

"(4) the age and years of service of the officer or member; and

"(5) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(b) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1981 through 2003, shall make available to the Speaker, the President pro tempore, the Mayor, the Council, the Comptroller General, and the enrolled actuary—

"(1) all determinations (including related documents and information) made during the preceding calendar year pursuant to subsection (a) of this section; and

"(2) the decisions of the Board on the type of annuity to be awarded to officers and members subject to a determination under subsection (a) during such year."

Conform the table of contents accordingly.

Mr. BRAUER. Amendment No. 4 requires that data on percentage of disability be computed for current employees. Mr. Chairman, this amendment is structured to allow the city to determine the theoretical savings that would have occurred with the reduction for disability benefits for current employees. The amendment requires that a percentage of disability system be set up to make a calculation for current employees. It would provide data for future actuarial calculations on the cost of disability retirements. The amendment requires an annual comparison of percentage of disability in actual awards.

The CHAIRMAN. Are there any questions?

Mr. McKINNEY. This in no way changes the current employees' benefits?

Mr. BRAUER. This in no way changes the current employees' benefits.

The CHAIRMAN. Any further questions?

[No response.]

The CHAIRMAN. If not, the vote occurs on the amendment No. 4. All those in favor, signify by saying "aye."

[Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. The amendment carries.

The clerk will report amendment No. 5, the elimination of double-dipping.

[The amendment referred to follows:]

AMENDMENT No. 5—PROHIBITION AGAINST DOUBLE DIPPING

Page 128, after line 2, insert the following new section :

"RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

"SEC. 213. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act (as redesignated by section 209(a)(1)(A) and amended by section 211) is amended by adding at the end thereof the following new paragraph :

"(5) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this section after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this section and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant."

Page 144, after line 25, add the following new section :

"RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

"SEC. 257. The Act entitled 'An Act for retirement of public school teachers in the District of Columbia', approved August 7, 1946 (D.C. Code, sec. 31-721 et seq.), is amended by adding after section 24 (as added by section 253(a)(6)) the following new section :

"SEC. 25. Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this Act after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under this Act and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher."

Conform the table of contents accordingly.

Mr. BRAUER. Mr. Chairman, amendment No. 5 eliminates double-dipping. It provides that for police officers, firefighters, and teachers the total of their annuity plus salary for any District of Columbia job shall not exceed the total salary for that job, and the salary shall be reduced by the amount of the annuity.

The CHAIRMAN. Are there any questions?

Mrs. FENWICK. How does this work out? Supposing somebody is now employed? What are we saying? If you work for 20 years before you get retirement, and then you get another job in the District or any other job in the—

The CHAIRMAN. In the District of Columbia government only.

Mrs. FENWICK. What if you get another job somewhere else?

Mr. MCKINNEY. Yes.

Mrs. FENWICK. That is what I was afraid of. If you will stop somebody from enjoying an annuity to which they have become entitled through employment, then if they went out and got a job in the private sector, it would seem to me awful if you could cut them down in their money. But that is not the case; is that correct?

Mr. MCKINNEY. All we are saying is, if they work for the District and the job has a top pay level of \$18,000, they cannot, between their annuity and their salary, take in more than \$18,000 from the District.

The CHAIRMAN. Any further questions on amendment No. 5?

[No response.]

The CHAIRMAN. If not, the vote occurs on that amendment. All those in favor, signify by saying "aye."

[Chorus of ayes.]

The CHAIRMAN. Those opposed?

[No response.]

The CHAIRMAN. The amendment carries.

The clerk will report amendment No. 6, designated as the annual calculation of unpaid Federal obligation.

[The amendment referred to follows:]

AMENDMENT No. 6—DETERMINATION OF UNPAID FEDERAL OBLIGATION

Page 32, after line 22, insert the following new subparagraph:

“(G) The unpaid Federal obligation, which shall be computed as the difference between the accrued actuarial liability as of January 2, 1975 (in future value as of the end of the fiscal year for which the determination is made), and the sum of the future Federal obligation, the current value of previous Federal contributions, and (in the case of the District of Columbia Teachers’ Retirement Fund and the District of Columbia Judges’ Retirement Fund) the current value of any assets in the predecessor to such Fund as of January 2, 1975.”

Mr. BRAUER. Amendment No. 6 assures the annual calculation of the unpaid Federal obligation. It is, essentially, a statement of requirement and it assumes that the full Federal obligation to the District is the amount of the unfunded liability on January 2, 1975. This amendment requires an annual calculation of the amount of this unfunded liability to the Federal Government that is not yet paid or committed by authorized legislation to pay.

The CHAIRMAN. Are there any questions on amendment No. 6?

Mrs. FENWICK. Mr. Chairman, I am so sorry. I do not quite understand that. Help me here. “The unpaid obligation, which shall be computed * * *” and so on, “* * * and the sum of the future Federal obligation, the current value * * *” shall be what? What is the conclusion of that sentence?

Mr. BRAUER. Mrs. Fenwick, it is not a sentence. It follows a leading statement which says, “On the basis of the most recent determinations made by actuarial . . . an enrolled actuary shall certify to the board each year the following information. . . .”

Mrs. FENWICK. I see. Thank you, Mr. Chairman.

The CHAIRMAN. Any further questions? [No response.]

If not, the vote occurs on amendment No. 6. All those in favor signify by saying “aye.”

[Chorus of ayes.]

Opposed?

[No response.]

The CHAIRMAN. The amendment carries.

The clerk will report amendment No. 7.

[The amendment referred to follows:]

AMENDMENT No. 7—REDEFINITION OF FEDERAL SHARE OF THE UNFUNDED LIABILITY

Page 40, strike out lines 18 through 21 and insert in lieu thereof the following:

(2) For the purposes of this subsection, the term Federal share, with respect to a retirement program, means the sum of—

(A) 100 percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon the years of creditable service of the participant

(and for the beneficiaries of such participants under the retirement program); and

(B) 33½ percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon a disease or disability from which the participant is suffering (and for the beneficiaries of such participants under the retirement program).

Mr. BRAUER. Amendment No. 7 changes the definition of the unfunded liability to be assumed by the Federal Government. This amendment assumes the Federal responsibility of the unfunded liability is 100 percent of the accrued unfunded liability as of October 1, 1979, for those participants who retired on nondisability as of January 2, 1975, the date of home rule, and 33½ percent of those participants who retire on disability.

What this says, in effect, is that by waiting a year to pass the bill, the amount of money that was in the bill last year that would have made the entire unfunded liability, both for those persons who retired nondisabled and those persons who retired disabled, that same amount of money this year will only allow us to pay for the unfunded liability of persons who retired nondisabled and a third of those that retired disabled. We lost the ability to cover the other two-thirds of disabled retirees under this payment because of inflation and other actuarial costs.

The CHAIRMAN. Are there any questions on this amendment?

Mrs. FENWICK. Mr. Chairman, when you say "inflation," you mean these payments are tied to rises in the cost of living?

Mr. BRAUER. No, ma'am. What I am saying is that we, last year in our bill, authorized a \$1.6 billion. That amount, based on the then-structured actuarial estimate of costs, would have allowed us to meet an obligation—

Mrs. FENWICK. I understand.

Mr. BRAUER [continuing]. And this year, because there have been recalculations of actuarial figures—not just inflation, but recalculations of death rates and retirement rates—and the amount of inflation that occurred this year—

Mrs. FENWICK. What effect does inflation have on it? Does it mean that the wages have risen, and therefore the benefits would be greater?

Mr. BRAUER. Yes. That is part of it.

Mrs. FENWICK. In other words, increases in salaries have caused a \$600 million bill?

Mr. McKINNEY. Plus the recalculation.

Mr. BRAUER. Plus the recalculation. There was a significant—

Mrs. FENWICK. Were there errors in the calculation of the actuarial figures?

Mr. BRAUER. No. I can't say. My understanding was that it was just new employees and a review of the factors involved.

Mrs. FENWICK. I am trying to get a grip on what kind of factors there were. What are we dealing with here?

Mr. BRAUER. We are dealing with the factors that actuaries utilize in order to determine potentialities of retirement and death.

Mrs. FENWICK. So they changed their ideas on who might die or become disabled?

Mr. BRAUER. Based on the population they are reviewing, and that, of course, is fluid, because people do retire and people are hired.

Mrs. FENWICK. Did the number of employees increase?

Mr. BRAUER. I don't believe that is so. The actuarial work on the bill is done by the Treasurer of the United States.

Mrs. FENWICK. Yes. I just don't see how it could have gone up \$600 million, just because of the increase in salaries.

Mr. McKINNEY. I would interject, just briefly. This is a very nebulous area. There were enough of us last year who had great difficulty with the Treasurer's figures. I can practically say that in three grueling years this bill has been up, I have seen more different actuarial tables than I care to count. I think that, without being nasty, I can say the Treasury was sloppy. I think it was suggested to them that they were sloppy, and I think they went back to the shop and sharpened up their pencils and came out with this—

Mrs. FENWICK. \$600 million?

Mr. BRAUER. In fairness to the Treasury, there was also a lag time, and Treasury may well have been utilizing data from 2 years prior, in the assumptions of last year. So, this year's recalculation may have in fact encompassed changes over a 3-year period.

Mr. McKINNEY. I think, actually, about 3 years. They have a 3-years' time, rather than just one.

Did the gentlelady hear that?

Mrs. FENWICK. No.

Mr. McKINNEY. I think, when we got the actuarial tables that we used for this final bill, they were probably 2 years old, if not 3 years old. So you really have a gap now of 3 years.

Mrs. FENWICK. What is this 100 percent, starting October 1979? Why don't we start that in 1975, too? Why are we using two dates here?

Mr. BRAUER. Because we are starting now, ma'am.

Mr. McKINNEY. We have not paid any.

Mrs. FENWICK. I see. Thank you.

The CHAIRMAN. The city has been paying the whole thing.

Mrs. FENWICK. That is not right.

The CHAIRMAN. Are there any further questions on amendment No. 7? [No response.]

If not, the vote occurs on that amendment. All in favor, signify by saying "aye."

[Chorus of ayes.]

The CHAIRMAN. Those opposed?

[No response.]

The amendment carries.

The Clerk will now read amendment No. 8.

[The amendment referred to follows:]

AMENDMENT NO. 8—AMENDMENT TO MOVE EFFECTIVE DATES IN BILL BACK ONE YEAR

Page 17, line 1, strike out "1978" and insert in lieu thereof "1979".

Page 33, lines 9, 12, and 15, strike out "2003" each place it appears and insert in lieu thereof "2004".

Page 34, line 14, strike out "1978" and insert in lieu thereof "1979".

Page 34, line 20, strike out "2003" and insert in lieu thereof "2004".

Page 35, line 12, strike out "2004" and insert in lieu thereof "2005".

Page 35, line 20, strike out "2002" and insert in lieu thereof "2003".
 Page 38, line 23, strike out "1979" and insert in lieu thereof "1980".
 Page 38, line 24, strike out "2003" and insert in lieu thereof "2004".
 Page 40, line 11, strike out "2003" and insert in lieu thereof "2004".
 Page 48, line 24, strike out "2003" and insert in lieu thereof "2004".
 Page 49, line 16, strike out "1979" and insert in lieu thereof "1980".
 Page 107, line 14, strike out "1978" and insert in lieu thereof "1979".
 Page 114, line 18, strike out "1980" and insert in lieu thereof "1981".
 Page 120, line 22, strike out "1980" and insert in lieu thereof "1981".
 Page 135, lines 2 and 8, stroke out "1980" each place it appears and insert in lieu thereof "1981".

The CHAIRMAN. Amendment No. 8 is simply a perfecting amendment to move the effective dates in the bill forward 1 year. We introduced the conference report last year, and this amendment simply changes the dates forward 1 year.

Are there any questions? [No response.]

If not, all those in favor of amendment No. 8, signify by saying "aye."

[Chorus of ayes.]

Those opposed?

[No response.]

The amendment is carried.

Will the Clerk read amendment No. 9?

[The amendment referred to follows:]

AMENDMENT No 9—ANNUAL FEDERAL PAYMENT AUTHORIZATION

Page 39, line 3, strike out "49,270,000" and insert in lieu thereof "\$39,445,000".

Page 39, line 7, strike out "\$15,510,000" and insert in lieu thereof "\$21,827,000".

Page 39, line 10, strike out "\$220,000" and insert in lieu thereof "\$287,000".

The CHAIRMAN. Would the staff explain briefly to the committee the technical amendment, No. 9?

Mr. BRAUER. No. 9 changes the amount of the annual authorization, Mr. Chairman. The numbers are a direct consequence of amendments 7 and 8 that are a result of the choice of the fiscal year in which we initiated the Federal payment and the percentages that are assumed in amendment 7.

The CHAIRMAN. Amendment No. 9 is simply a perfecting amendment.

Mr. BRAUER. It is a perfecting amendment, the result of the other perfecting amendments, and amounts to an annual authorization of around \$61 million, and authorizes a total of something in excess of \$1.5 billion.

The CHAIRMAN. Any questions? [No response.]

If not, the vote occurs on amendment No. 9.

Mrs. FENWICK. Mr. Chairman, I know this is tiresome, but I am just trying to keep a grip on what we were told. This \$1.5 billion, that has nothing to do with this year? We are not talking about that money this year or this budget?

The CHAIRMAN. No.

Mr. MCKINNEY. There is a mistake on the description. The description says "annual authorization." It is not. It is an annual authorization of \$61 million.

Mr. BRAUER. You are correct. I noted that.

Mrs. FENWICK. This is included?

The CHAIRMAN. That is the point the gentlewoman was raising.

Mrs. FENWICK. Thank you, Mr. Chairman.

The CHAIRMAN. All those in favor of amendment No. 9, signify by saying "aye."

[Chorus of ayes.]

Those opposed?

[No response.]

The amendment carries.

The clerk will read amendment No. 10.

[The amendment referred to follows:]

Amendment No. 10—Technical amendments to Funding Mechanism.

Page 32, after line 22, insert the following: "For the purposes of subparagraph (F), the term 'current value of the assets in the Fund' shall be deemed to include (i) the present value of any payments to be made to the Fund by the District in accordance with subsection (b) (1) (C) (ii), and (ii) the present value of the amount of any reduction in the amount of future District payments to the Fund determined in accordance with subsection (b) (1) (D)."

Page 34, line 3, insert "(i)" after "(C)".

Page 34, line 6, strike out "(i)" and insert in lieu thereof "(I)".

Page 34, line 7, strike out "(ii)" and insert in lieu thereof "(II)".

Page 34, after line 13, insert the following: "(ii) A level amortization payment shall not be required under this subparagraph for any fiscal year to the extent that the difference between the amount determined under subparagraph (A) (i) and the amount determined under subparagraph (A) (ii) for such fiscal year is attributable to the failure of the Federal Government to make all or any part of the Federal payment to such Fund for any fiscal year."

The CHAIRMAN. Amendment No. 10, as I understand it, is also a technical amendment to the funding mechanism. Would counsel explain that briefly to the committee?

Mr. BRAUER. Amendment No. 10 is a technical correction. It redefines the current value of assets in the fund, and it keeps the District from being penalized if the Congress failed to fully appropriate its authorized obligations under the bill.

The CHAIRMAN. Are there any questions? [No response.]

If not, the vote occurs on amendment No. 10. All those in favor, signify by saying "aye."

[Chorus of ayes.]

All opposed?

[No response.]

The amendment carries.

Mr. McKINNEY. Mr. Chairman, I move this subcommittee report H.R. 3560, as amended, to the full committee and actually report a clean bill to the full committee.

The CHAIRMAN. Without objection, with respect to the issue of a clean bill, that will be so ordered.

VOTE ON H.R. 3560 AS AMENDED

The Clerk will call the roll.

Mr. CLARK. Mr. Gray?

The CHAIRMAN. Aye, by proxy.

Mr. CLARK. Mr. Fauntroy?

The CHAIRMAN. Aye, by proxy.

Mr. CLARK. Mr. McKinney?

Mr. McKINNEY. Aye, by person.

Mr. CLARK. Ms. Fenwick?

Ms. FENWICK. Aye, on the understanding that this, as I am sure, is part of the budget request of this committee.

The CHAIRMAN. The Chair will so note your reservation.

Mr. CLERK. Mr. Dellums?

The CHAIRMAN. Aye. I do not know that there is any parliamentary procedure for this, but it indicates we are operating on the basis of good faith.

Mr. CLARK. The vote was five "Ayes" and no "Nays."

The CHAIRMAN. The subcommittee will report the bill, H.R. 3560 as amended, as a clean bill to the full committee.

Is there any other business to come before this committee?

Mr. MCKINNEY. I would just like to have both staffs lasso the members of this committee so that we can get some of these matters out by Monday morning.

Ms. FENWICK. For what?

Mr. MCKINNEY. For a monthly meeting of the full committee.

I would assume, Mr. Chairman, that we cannot have a clean bill in front of us that quickly. I would assume we could operate from the old bill, with copies of the amendments to each member. It seems to me that if we do not act upon it on Monday, we are out of luck.

Mr. BRAUER. Mr. Chairman, we will have a bill to introduce, if the Government Printing Office can get it back before Monday. Will the staff have permission to make technical corrections in preparing the bill?

The CHAIRMAN. Without objection, the staff will be permitted to make whatever technical and conforming changes are necessary.

If there is no other business to come before this committee, the subcommittee will stand adjourned.

[Whereupon, at 10:20 a.m., the markup of H.R. 3560 adjourned.]

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Financing Retirement Funds for Police, Firemen, Teachers, and Judges

MONDAY, MAY 7, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The committee met, pursuant to notice, at 11:03 a.m., in room 1310, Longworth House Office Building, the Honorable Ronald V. Dellums (chairman of the committee) presiding.

Present: Representatives Dellums, Diggs, Delegate Fauntroy, Representatives Mazzoli, Harris, Stark, McKinney, and Daniel.

Also present: Edward C. Sylvester, staff director; Elizabeth D. Lunsford, general counsel; James T. Clark, legislative counsel; Dale MacIver, staff counsel; Robert Brauer, staff assistant; Robert Cover, office of legislative counsel; Mattie McFadden, Rod Kuckro, and Stephen Horblitt, staff assistants; Barbara C. Washington, minority chief counsel; and Harry M. Singleton, deputy minority counsel.

H.R. 3939

The CHAIRMAN. The Committee on the District of Columbia will come to order. The Chair calls up the bill H.R. 3939, a clean bill reported by the subcommittee on May 4 of this year to establish an actuarially sound pension plan for the District of Columbia; police officers, firefighters, teachers, and judges. Without objection, the bill will be considered as read and opened for amendment at any point.

[The above referred-to bill, H.R. 3939, as introduced by Messrs. Dellums, Bauman, Kemp, McKinney, Fauntroy, Moffett, Mrs. Holt, Mr. Diggs, Mrs. Spellman, Messrs. Leland, Barnes, Gray, Harris, Fisher, Stark, Byron, Rodino, and Mazzoli on May 4, 1979, follows:]

(237)

96th Congress, 1st Session H. R. 3939

A BILL

To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE AND TABLE OF CONTENTS

4 SECTION 1. This Act, with the following table of con-
5 tents, may be cited as the "District of Columbia Retirement
6 Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.

Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.

Sec. 122. District of Columbia Police Officers and Fire Fighters' Retirement Fund.

Sec. 123. District of Columbia Teachers' Retirement Fund.

Sec. 124. District of Columbia Judges' Retirement Fund.

Sec. 125. Management of Retirement Funds.

Sec. 126. Payments from the Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.

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- Sec. 203. Requirements for optional retirement.
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- Sec. 208. Interest on refunds and on deposits for prior service credit.
- Sec. 209. Cost-of-living adjustments of annuities.
- Sec. 210. Authority to waive collection of overpayments.
- Sec. 211. Commencing date of payment of annuities.
- Sec. 212. Payment of annuities to minors and mental incompetents.
- Sec. 213. Improvements in administration of disability retirements.
- Sec. 214. Restriction on retired police officers and fire fighters receiving annuity while employed by the District of Columbia government.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

- Sec. 251. Cost-of-living adjustments of teachers' annuities.
- Sec. 252. Cost-of-living adjustments of judges' annuities.
- Sec. 253. Interest on teachers' refunds and deposits.
- Sec. 254. Interest on judges' redeposits.
- Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.
- Sec. 256. Termination of teachers' disability annuities based on outside earned income.
- Sec. 257. Restriction on retired teachers receiving annuity while employed by the District of Columbia government.

1 TITLE I—FINANCING OF RETIREMENT BENEFITS

2 PART A—FINDINGS AND PURPOSE; DEFINITIONS

3 FINDINGS AND PURPOSE

- 4 SEC. 101. (a) The Congress finds that the retirement
- 5 benefits authorized by various Acts of Congress for the police
- 6 officers, fire fighters, teachers, and judges of the District of
- 7 Columbia have not been financed on an actuarially sound
- 8 basis. Neither Federal payments to the District nor District

1 of Columbia appropriations have taken into account the long-
2 term financial requirements of the District's retirement pro-
3 grams. As a result, the annual budget cost to the District of
4 Columbia for annuities and refunds of deductions is growing
5 at a rapid rate and, in the case of the retirement program for
6 police officers and fire fighters, is predicted to exceed the cost
7 of salaries for active police officers and fire fighters by the
8 year 2000.

9 (b) It is the purpose of this title—

10 (1) to establish separate retirement Funds for
11 police officers and fire fighters, for teachers, and for
12 judges of the District of Columbia;

13 (2) to establish a Retirement Board with responsi-
14 bility for managing these Funds;

15 (3) to require that these Funds be managed on an
16 actuarially sound basis in order to provide proper fi-
17 nancing for the benefits to which the District's retired
18 police officers, fire fighters, teachers, and judges are
19 entitled;

20 (4) to require that the Retirement Board comply
21 with reporting and disclosure requirements similar to
22 those imposed under the Employee Retirement Income
23 Security Act of 1974; and

24 (5) to provide for Federal payments to these
25 Funds to help finance, in part, the liabilities for retire-

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1 nization Order Numbered 30, Commissioner's Order
2 Numbered 72-80, April 5, 1972 (D.C. Code, title 1—
3 Appendix)).

4 (7) The term "retirement program" means—

5 (A) the program of annuities and other re-
6 tirement and disability benefits for members and
7 officers of the Metropolitan Police force and the
8 Fire Department of the District of Columbia, but
9 does not include the program of annuities and
10 other retirement and disability benefits for mem-
11 bers and officers of the United States Park Police
12 force, the Executive Protective Service, or the
13 United States Secret Service Division under the
14 Policemen and Firemen's Retirement and Disabil-
15 ity Act;

16 (B) the program of annuities and other re-
17 tirement and disability benefits for judges of the
18 courts of the District of Columbia under sub-
19 chapter III of chapter 15 of title 11 of the Dis-
20 trict of Columbia Code; or

21 (C) the program of annuities and other re-
22 tirement and disability benefits for teachers in the
23 public day schools of the District of Columbia.

24 (8) The term "State" means any State of the
25 United States, the District of Columbia, Puerto Rico,

1 the Virgin Islands, American Samoa, Guam, Wake
2 Island, and the Canal Zone.

3 (9) The term "party in interest" means—

4 (A) any person (including a member of the
5 Board) having fiduciary responsibilities under this
6 title;

7 (B) any person providing services to a Fund;

8 (C) the government of the District of Colum-
9 bia;

10 (D) an employee organization; and

11 (E) a spouse, ancestor, lineal descendant, or
12 spouse of a lineal descendant of any individual de-
13 scribed in subparagraph (A) or (B).

14 (10) The term "Fund" means the District of Co-
15 lumbia Police Officers and Fire Fighters' Retirement
16 Fund established by section 122, the District of Co-
17 lumbia Teachers' Retirement Fund established by sec-
18 tion 123, or the District of Columbia Judges' Retire-
19 ment Fund established by section 124.

20 (11) The term "current value" means fair market
21 value where available (as determined in good faith by a
22 fiduciary in accordance with regulations promulgated
23 by the Board) or otherwise the fair value (as deter-
24 mined in good faith by a fiduciary in accordance with

1 regulations promulgated by the Board), assuming an
2 orderly liquidation at the time of such determination.

3 (12) The term "future value" means a liability for
4 a given prior fiscal year expressed in terms of the price
5 level expected to prevail in a given future fiscal year,
6 adjusted at the rate of inflation used with regard to de-
7 terminations made under section 142(a)(1).

8 (13) The term "qualified public accountant"
9 means a person who is a certified public accountant,
10 certified by a regulatory authority of a State.

11 (14) The term "enrolled actuary" means an actu-
12 ary enrolled under subtitle C of title III of the Em-
13 ployee Retirement Income Security Act of 1974.

14 (15) The term "security" means a security as de-
15 fined in section 2(1) of the Securities Act of 1933.

16 (16) The term "employee organization" means
17 any labor union or any organization of any kind, or
18 any agency or employee representation committee, as-
19 sociation, group, or plan, in which individuals covered
20 by a retirement program participate and which exists
21 for the purpose, in whole or in part, of dealing with
22 the government of the District of Columbia concerning
23 such retirement program.

24 (17) The term "teacher" means a teacher as de-
25 fined in section 13 of the Act entitled "An Act for the

1 retirement of public-school teachers in the District of
2 Columbia", approved August 7, 1946 (D.C. Code, sec.
3 31-733).

4 (18) The term "judge" means a judge as defined
5 in section 11-1561(1) of title 11 of the District of Co-
6 lumbia Code.

7 (19) The term "participant" does not include an
8 officer or member of the United States Park Police
9 force, the Executive Protective Service, or the United
10 States Secret Service Division to whom the Policemen
11 and Firemen's Retirement and Disability Act applies;
12 and, unless the context requires otherwise, the term
13 "beneficiary" does not include a beneficiary under such
14 Act of any such officer or member.

15 PART B—ESTABLISHMENT OF RETIREMENT BOARD AND
16 RETIREMENT FUNDS

17 DISTRICT OF COLUMBIA RETIREMENT BOARD

18 SEC. 121. (a) There is established, as an independent
19 agency of the government of the District of Columbia, a
20 board of trustees to be known as the District of Columbia
21 Retirement Board which shall have exclusive authority and
22 discretion (subject to the requirements of this title) to manage
23 and control the Funds established by this title.

24 (b)(1) The Board shall consist of eleven members select-
25 ed as follows:

1 (A) One member or officer of the Metropolitan
2 Police force of the District of Columbia, to be elected
3 by the members and officers of the Metropolitan Police
4 force.

5 (B) One retired member or officer of the Metro-
6 politan Police force of the District of Columbia, to be
7 elected by the retired members and officers of the Met-
8 ropolitan Police force.

9 (C) One member or officer of the Fire Department
10 of the District of Columbia, to be elected by the mem-
11 bers and officers of the Fire Department.

12 (D) One retired member or officer of the Fire De-
13 partment of the District of Columbia, to be elected by
14 the retired members and officers of the Fire Depart-
15 ment.

16 (E) One teacher in the public day schools of the
17 District of Columbia, to be elected by the teachers of
18 the public day schools of the District of Columbia.

19 (F) One teacher in the public day schools of the
20 District of Columbia who is retired, to be elected by
21 the retired teachers of the public day schools of the
22 District of Columbia.

23 (G) Two individuals appointed by the Council of
24 the District of Columbia.

25 (H) Three individuals appointed by the Mayor.

1 A vacancy on the Board shall be filled in the manner in
2 which the original selection was made.

3 (2) The first election of the Board members described in
4 subparagraphs (A) through (F) of paragraph (1) shall be con-
5 ducted within six months after the date of the enactment of
6 this title in accordance with regulations which the Mayor
7 shall promulgate. Thereafter, elections shall be conducted by
8 the Board. In any such election, voting shall be by secret
9 ballot, and each individual to be represented on the Board by
10 the winner of such election shall be eligible to vote in such
11 election.

12 (3)(A) Except as provided in subparagraph (B), the
13 members of the Board shall each serve a term of four years,
14 except that a member selected to fill a vacancy occurring
15 prior to the end of the term for which his predecessor was
16 selected shall only serve until the end of such term. A
17 member may serve after the expiration of his term until his
18 successor has taken office.

19 (B) Of the members of the Board who are first select-
20 ed—

21 (i) two shall serve for a term of one year,

22 (ii) three shall serve for a term of two years,

23 (iii) three shall serve for a term of three years,

24 and

25 (iv) three shall serve for a term of four years,

1 as determined by lot at the first meeting of the Board.

2 (4) No individual shall serve more than two terms as a
3 member of the Board, except that an individual serving less
4 than two years of a term to which some other individual was
5 originally selected shall be eligible for two full terms as a
6 member of the Board and an individual serving two years or
7 more of a term to which some other individual was originally
8 selected shall be eligible for only one full term as a member
9 of the Board.

10 (5) Any individual who was selected as a member of the
11 Board under subparagraph (A), (C), or (E) of paragraph (1)
12 and who ceases to be a member or officer of the Metropolitan
13 Police force, member or officer of the Fire Department, or a
14 teacher, as the case may be, may not continue as a member
15 of the Board.

16 (6) No member of the Board may hold or be a candidate
17 for any elective office in the District of Columbia.

18 (7) No member of the Board may have any personal
19 interest, direct or indirect (except as a participant in a retire-
20 ment program), in any transaction involving assets of the
21 Funds established by this title and shall otherwise comply
22 with the standards of conduct applicable to fiduciaries in the
23 District of Columbia, as well as those standards of conduct
24 established by part E of this title.

1 (8) Not less than two of the members of the Board ap-
2 pointed by the Mayor under paragraph (1) shall be individuals
3 who have professional work experience in the banking, insur-
4 ance, or investment industry.

5 (9) Any member of the Board may be removed from the
6 Board by a vote of two-thirds of the members of the Board
7 for a breach of fiduciary responsibility with respect to a Fund
8 or for a violation of section 184.

9 (10) The Board shall elect one member of the Board to
10 be chairman of the Board. The chairman shall be elected for
11 a term of one year, but may be removed from such position
12 by a vote of two-thirds of the members of the Board.

13 (11) The Director of the Office of Budget and Financial
14 Management of the District of Columbia shall be an ex officio
15 member of the Board, but shall not vote, shall not be eligible
16 to be elected chairman of the Board, and shall not be counted
17 for purposes of a quorum.

18 (c) Subject to the availability of appropriations therefor,
19 each member of the Board shall be entitled to receive the
20 hourly equivalent of the annual rate of pay in effect for the
21 highest step of grade GS-15 of the General Schedule under
22 section 5332 of title 5, United States Code, for each hour
23 such member is engaged in the actual performance of duties
24 vested in the Board, except that any member of the Board
25 who is a full-time officer or employee of the District of Co-

1 lumbia or the United States shall not be entitled to receive
2 pay under this subsection for performance of duties vested in
3 the Board.

4 (d)(1) The Board shall meet at least once each calendar
5 quarter at a regular and specified time. It shall meet at such
6 other times as the chairman or any three members of the
7 Board may prescribe.

8 (2) Any six members shall constitute a quorum for the
9 transaction of the business of the Board.

10 (3) Except as otherwise provided in this title, actions of
11 the Board shall be determined by a majority vote of the mem-
12 bers present and voting.

13 (e) The Board shall from time to time promulgate rules
14 and regulations, adopt resolutions, issue directives for the ad-
15 ministration and transaction of its business and for the con-
16 trol of the Funds established by this title, and perform such
17 other functions as may be necessary to carry out its responsi-
18 bilities under this title.

19 (f)(1) All administrative expenses incurred by the Board
20 in carrying out this title, including compensation for the
21 members of the Board, shall be paid out of funds appropriated
22 for such purpose.

23 (2) The budget prepared and submitted by the Mayor
24 pursuant to section 442 of the District of Columbia Self-Gov-
25 ernment and Governmental Reorganization Act shall include

1 recommended expenditures at a reasonable level for the
2 forthcoming fiscal year for the administrative expenses of the
3 Board.

4 (3) The Mayor and the Council may establish the
5 amount of funds which will be allocated to the Board for
6 administrative expenses, but may not specify the purposes for
7 which such funds may be expended or the amounts which
8 may be expended for the various activities of the Board.

9 (g)(1) The Board shall engage the services of competent
10 investment counsel or counsels who shall be qualified under
11 the Investment Advisors Act of 1940. Such investment coun-
12 sel or counsels shall be fiduciaries, to the extent designated
13 by the Board, with respect to services rendered to the Board.
14 Such fiduciary relationship shall be specified in a written
15 agreement between the investment counsel or counsels and
16 the Board.

17 (2) The Board may appoint such staff as it considers
18 necessary to enable it to carry out its responsibilities under
19 this title. The staff of the Board shall be appointed subject to
20 the provisions of title 5, United States Code, governing ap-
21 pointments in the competitive service, and shall be paid in
22 accordance with the provisions of chapter 51 and subchapter
23 III of chapter 53 of such title relating to classification and
24 General Schedule pay rates, except that no staff member
25 may receive pay in excess of the annual rate of basic pay in

1 effect for GS-15 of the General Schedule under section 5332
2 of title 5, United States Code.

3 (h) Not more than ninety days after all initial members
4 of the Board have been selected in accordance with subsec-
5 tion (b) of this section, the Board shall certify in writing to
6 the Director of the Office of Budget and Financial Manage-
7 ment of the District of Columbia that the Board is assuming
8 responsibility for the Funds established by this title.

9 DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE
10 FIGHTERS' RETIREMENT FUND

11 SEC. 122. (a) There is established a fund to be known as
12 the District of Columbia Police Officers and Fire Fighters'
13 Retirement Fund into which shall be deposited the following,
14 which shall constitute the assets of the Fund:

15 (1) Any amount paid to the Custodian of Retire-
16 ment Funds pursuant to the last sentence of subsection
17 (d)(1) or to subsection (c)(5) of the Policemen and Fire-
18 men's Retirement and Disability Act or pursuant to
19 the proviso in the paragraph under the heading "Po-
20 licemen and Firemen's Relief Fund" in the Act of
21 June 14, 1935.

22 (2) Any amount appropriated for such Fund under
23 part C of this title.

24 (3) Any return on investment of the assets of such
25 Fund.

1 After September 30, 1979, or after the end of the thirty-day
2 period beginning on the date on which funds are first appro-
3 priated to the District of Columbia Police Officers and Fire
4 Fighters' Retirement Fund, whichever is later, all payments
5 of annuities and other retirement and disability benefits (in-
6 cluding refunds and lump-sum payments) under the Police-
7 men and Firemen's Retirement and Disability Act shall be
8 made from the Fund (except for any such payment which is
9 made to an officer or member of the United States Park
10 Police force, the Executive Protective Service, or the United
11 States Secret Service Division, or to a beneficiary of any
12 such officer or member).

13 (b)(1) The last sentence of subsection (d)(1) of the Po-
14 licemen and Firemen's Retirement and Disability Act (D.C.
15 Code, sec. 4-524(1)) is amended by striking out "Such" and
16 inserting in lieu thereof "In the case of a member who is an
17 officer or member of the Metropolitan Police force or the Fire
18 Department of the District of Columbia, such deductions and
19 withholdings shall be paid to the Custodian of Retirement
20 Funds (as defined in section 102(6) of the District of Colum-
21 bia Retirement Reform Act) and shall be deposited in the
22 District of Columbia Police Officers and Fire Fighters' Re-
23 tirement Fund established by section 122(a) of such Act; and
24 in the case of any other member, such".

1 (2) The proviso in the paragraph under the heading
2 "Policemen and Firemen's Relief Fund" in the Act of June
3 14, 1935 (D.C. Code, sec. 4-502), is amended by inserting
4 immediately before the period the following: " , except that
5 all moneys required to be deposited with respect to officers
6 and members of the Metropolitan Police force or the Fire
7 Department of the District of Columbia shall be paid to the
8 Custodian of Retirement Funds (as defined in section 102(6)
9 of the District of Columbia Retirement Reform Act) for de-
10 posit in the District of Columbia Police Officers and Fire
11 Fighters' Retirement Fund established by section 122(a) of
12 such Act".

13 (3) The Act entitled "An Act to credit active service in
14 the military or naval forces of the United States in determin-
15 ing eligibility for and the amount of benefits from the police-
16 men and firemen's relief fund, District of Columbia", ap-
17 proved July 21, 1947 (D.C. Code, sec. 4-504a), is amended
18 by inserting "or the District of Columbia Police Officers and
19 Fire Fighters' Retirement Fund (established by section
20 122(a) of the District of Columbia Retirement Reform Act)"
21 immediately after "District of Columbia," the first place it
22 appears.

23 (c) The amendments made by paragraphs (1) and (2) of
24 subsection (b) shall take effect at the end of the ninety-day
25 period beginning on the date of the enactment of this Act.

1 The amendment made by paragraph (3) of such subsection
2 shall take effect on such date of enactment.

3 DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

4 SEC. 123. (a) There is established a fund to be known as
5 the District of Columbia Teachers' Retirement Fund into
6 which shall be deposited the following, which shall constitute
7 the assets of the Fund:

8 (1) Any amount paid to the Custodian of Retirement
9 Funds pursuant to the Act entitled "An Act for
10 the retirement of public-school teachers in the District
11 of Columbia", approved August 7, 1946, or under the
12 Act entitled "An Act to authorize certain teachers in
13 the public schools of the District of Columbia to count
14 as creditable service for retirement purposes certain
15 periods of authorized leave without pay taken by such
16 teachers for educational purposes", approved June 27,
17 1960.

18 (2) Any asset transferred to such Fund under sub-
19 section (c).

20 (3) Any amount appropriated for such Fund under
21 part C of this title.

22 (4) Any return on investment of assets of such
23 Fund.

24 Annuities and other retirement and disability benefits (includ-
25 ing refunds and lump-sum payments) payable from the Dis-

1 trict of Columbia teachers' retirement and annuity fund es-
2 tablished by section 2 of the Act of August 7, 1946, shall
3 continue to be paid from such fund until all amounts in such
4 fund have been expended or transferred under subsection (c)
5 to the District of Columbia Teachers' Retirement Fund, and
6 thereafter such benefits shall be paid from the District of Co-
7 lumbia Teachers' Retirement Fund.

8 (b)(1) The Act entitled "An Act for the retirement of
9 public-school teachers in the District of Columbia", approved
10 August 7, 1946, is amended—

11 (A) in the first section (D.C. Code, sec.
12 31-721)—

13 (i) by adding at the end of the first paragraph
14 the following new sentence: "After the end of the
15 ninety-day period beginning on the date of the en-
16 actment of the District of Columbia Retirement
17 Reform Act, any amounts deducted and withheld
18 pursuant to this paragraph shall be paid to the
19 Custodian of Retirement Funds (as defined in sec-
20 tion 102(6) of such Act) for deposit in the District
21 of Columbia Teachers' Retirement Fund estab-
22 lished by section 123(a) of such Act.", and

23 (ii) in the first sentence of the second para-
24 graph, by striking out "Collector of Taxes, Dis-

1 trict of Columbia,” and inserting in lieu thereof
2 “Custodian of Retirement Funds”;

3 (B) in section 2 (D.C. Code, sec. 31-722), by
4 striking out “The” in the first sentence and inserting
5 in lieu thereof “Until the end of the ninety-day period
6 beginning on the date of the enactment of the District
7 of Columbia Retirement Reform Act, the”;

8 (C) in clause (ii) of paragraph (1) of section 5(b)
9 (D.C. Code, sec. 31-725(b)(1)(ii)), by striking out “re-
10 turned to the teachers’ retirement and annuity fund es-
11 tablished under section 2 of this Act” and inserting in
12 lieu thereof “repaid to the Custodian of Retirement
13 Funds (as defined in section 102(6) of the District of
14 Columbia Retirement Reform Act) for deposit in the
15 District of Columbia Teachers’ Retirement Fund estab-
16 lished by section 123(a) of such Act”;

17 (D) in section 9(a) (D.C. Code, sec. 31-729(a)),
18 by striking out “deposit in the fund” in the second pro-
19 viso and inserting in lieu thereof “repay to the Custo-
20 dian of Retirement Funds (as defined in section 102(6)
21 of the District of Columbia Retirement Reform Act) for
22 deposit in the District of Columbia Teachers’ Retire-
23 ment Fund established by section 123(a) of such Act,”;

24 (E) in clause (ii) of section 9(b)(1) (D.C. Code,
25 sec. 31-729(b)(1)), by striking out “returned to the

1 teachers' retirement and annuity fund established under
2 section 2 of this Act" and inserting in lieu thereof
3 "repaid to the Custodian of Retirement Funds (as de-
4 fined in section 102(6) of the District of Columbia Re-
5 tirement Reform Act) for deposit in the District of Co-
6 lumbia Teachers' Retirement Fund established by sec-
7 tion 123(a) of such Act"; and

8 (F) in section 17 (D.C. Code, sec. 31-737), by in-
9 serting "(including any assets of the District of Colum-
10 bia Teachers' Retirement Fund established by section
11 123(a) of the District of Columbia Retirement Reform
12 Act)" immediately after "Act".

13 (2) Section 4 of the Act entitled "An Act to increase
14 annuities payable to certain annuitants from the District of
15 Columbia teachers' retirement and annuity fund, and for
16 other purposes", approved September 2, 1958 (D.C. Code,
17 sec. 31-744), is amended by inserting immediately before the
18 period at the end of the first sentence the following: "until
19 such time as all amounts in such fund have been expended or
20 transferred under section 123(c) of the District of Columbia
21 Retirement Reform Act to the District of Columbia Teach-
22 ers' Retirement Fund established by section 123(a) of such
23 Act and thereafter from the District of Columbia Teachers'
24 Retirement Fund".

1 (3) The Act entitled "An Act to authorize certain teach-
2 ers in the public schools of the District of Columbia to count
3 as creditable service for retirement purposes certain periods
4 of authorized leave without pay taken by such teachers for
5 educational purposes", approved June 27, 1960 (D.C. Code,
6 sec. 31-745), is amended by striking out "the deposit by
7 such teacher to the credit of the teachers' retirement and
8 annuity fund of the District of Columbia" and inserting in
9 lieu thereof "payment by such teacher to the Custodian of
10 Retirement Funds (as defined in section 102(6) of the District
11 of Columbia Retirement Reform Act), for deposit in the Dis-
12 trict of Columbia Teachers' Retirement Fund established by
13 section 123(a) of such Act,".

14 (c) Notwithstanding any other provision of law, any
15 asset held in the District of Columbia teachers' retirement
16 and annuity fund established by section 2 of the Act of
17 August 7, 1946, may be transferred to the District of Colum-
18 bia Teachers' Retirement Fund established by subsection (a).

19 (d) The amendments made by subsection (b) shall take
20 effect at the end of the ninety-day period beginning on the
21 date of the enactment of this Act.

22 DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

23 SEC. 124. (a) There is established a fund to be known as
24 the District of Columbia Judges' Retirement Fund into which

1 shall be deposited the following, which shall constitute the
2 assets of the Fund:

3 (1) Any amount deposited pursuant to subchapter
4 III of chapter 15 of title 11 of the District of Columbia
5 Code.

6 (2) Any asset transferred to such Fund under sub-
7 section (c).

8 (3) Any amount appropriated for such Fund under
9 part C of this title.

10 (4) Any return on investment of the assets of such
11 Fund.

12 (b)(1) Section 11-1561(4) of title 11 of the District of
13 Columbia Code is amended by striking out "Judicial Retirement
14 and Survivors Annuity Fund as provided in section
15 11-1570" and inserting in lieu thereof "Judges' Retirement
16 Fund established by section 124(a) of the District of Colum-
17 bia Retirement Reform Act".

18 (2) Section 11-1563(a) of such title 11 is amended by
19 striking out "deposited in the fund in accordance with proce-
20 dures established by the Commissioner" and inserting in lieu
21 thereof "paid to the Custodian of Retirement Funds (as de-
22 fined in section 102(6) of the District of Columbia Retirement
23 Reform Act) for deposit in the fund".

24 (3) Section 11-1564(d)(4) of such title 11 is amended in
25 the first sentence by striking out "Judicial Retirement and

1 Survivors Annuity Fund” and inserting in lieu thereof
2 “Judges’ Retirement Fund established by section 124(a) of
3 the District of Columbia Retirement Reform Act”.

4 (4) Section 11-1570 of such title 11 is amended—

5 (A) in subsection (a)—

6 (i) in the first sentence, by inserting immedi-
7 ately before the period “until such time as all
8 amounts in such Fund have been expended or
9 transferred to the District of Columbia Judges’
10 Retirement Fund established by section 124(a) of
11 the District of Columbia Retirement Reform
12 Act”; and

13 (ii) by striking out the second and third sen-
14 tences and inserting in lieu thereof the following:
15 “Thereafter the retirement salaries, annuities, re-
16 funds, and allowances provided for in this sub-
17 chapter shall be paid from such Fund.”;

18 (B) in subsection (b)—

19 (i) by striking out “such funds” and inserting
20 in lieu thereof “the District of Columbia Judicial
21 Retirement and Survivors Annuity Fund”;

22 (ii) by striking out “from the fund” and in-
23 serting in lieu thereof “under the first sentence of
24 subsection (a)”; and

1 (iii) by striking out "fund" the second place
2 it appears and inserting in lieu thereof "District of
3 Columbia Judicial Retirement and Survivors An-
4 nuity Fund"; and

5 (C) in subsection (d), by inserting "(including
6 moneys in the District of Columbia Judges' Retirement
7 Fund)" immediately after "subchapter".

8 (c) Notwithstanding any other provision of law, any
9 asset held in the District of Columbia Judicial Retirement
10 and Survivors Annuity Fund may be transferred to the Dis-
11 trict of Columbia Judges' Retirement Fund established by
12 subsection (a).

13 (d) The amendments made by subsection (b) shall take
14 effect at the end of the ninety-day period beginning on the
15 date of the enactment of this Act.

16 MANAGEMENT OF RETIREMENT FUNDS

17 SEC. 125. (a) The Custodian of Retirement Funds shall
18 be the custodian of the assets of each Fund established by
19 this title and shall manage and invest such assets in accord-
20 ance with this title.

21 (b) The assets of each Fund shall be kept separate from
22 other moneys which may be under the control of the Custodi-
23 an of Retirement Funds, but need not be kept separate from
24 the assets of the other Funds if the Board determines that

1 commingling of such assets is advisable for investment
2 purposes.

3 (c) The Board shall maintain, in an appropriate deposi-
4 tory, a cash reserve for the Funds in an amount determined
5 by the Board to be sufficient to meet current outlays for an-
6 nuities and other retirement and disability benefits authorized
7 to be paid from such Funds.

8 PAYMENTS FROM THE FUNDS

9 SEC. 126. The Mayor shall notify the Custodian of Re-
10 tirement Funds of any payments to be made from the Funds
11 established by this title for annuities or other retirement or
12 disability benefits (including refunds and lump-sum pay-
13 ments), and the Custodian of Retirement Funds shall make
14 such payments from the appropriate Fund.

15 PART C—FINANCING OF RETIREMENT BENEFITS

16 LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

17 SEC. 141. (a) The assets of the Funds established by
18 this title may not be invested in the following:

19 (1) Interest-bearing bonds, notes, bills, or certifi-
20 cates of indebtedness of the government of the District
21 of Columbia, the government of the Commonwealth of
22 Virginia, or the government of the State of Maryland,
23 or the government of any political subdivision thereof,
24 or of any entity subject to control by any such govern-
25 ment or any combination of any such governments.

1 (2) Obligations fully guaranteed as to the payment
2 of both principal and interest by the government of the
3 District of Columbia, the government of the Common-
4 wealth of Virginia, or the government of the State of
5 Maryland, or the government of any political subdivi-
6 sion thereof, or of any entity subject to control by any
7 such government or any combination of any such gov-
8 ernments.

9 (3) Real property in the District of Columbia, Vir-
10 ginia, or Maryland.

11 (4) Loans, mortgages, bonds, notes, bills, or certif-
12 icates of indebtedness secured, in whole or in part, by
13 real property in the District of Columbia, Virginia, or
14 Maryland.

15 (b) Until such time as the members of the Board are first
16 selected and the Board certifies pursuant to section 121(h)
17 that it is assuming responsibility for the Funds established by
18 this title, the assets of such Funds may only be invested in
19 the following:

20 (1) Interest-bearing bonds, notes, bills, or certifi-
21 cates of indebtedness of the United States Government,
22 or obligations fully guaranteed as the payment of both
23 principal and interest by the United States Govern-
24 ment.

1 (2) Interest-bearing certificates of deposit issued
2 by National, State, or District of Columbia savings and
3 loan institutions.

4 DETERMINATION OF FEDERAL AND DISTRICT OF
5 COLUMBIA PAYMENTS TO THE FUNDS

6 SEC. 142. (a)(1) The Board shall engage an enrolled
7 actuary who may be the enrolled actuary engaged pursuant
8 to section 162(a)(4)(A), who shall, on the basis of the entry
9 age normal cost funding method and in accordance with gen-
10 erally accepted actuarial principles and practices, make the
11 following determinations with respect to each Fund:

12 (A) At the times specified in paragraph (2), the
13 actuary shall determine the level percentage of payroll,
14 expressed as a percentage (hereinafter in this title re-
15 ferred to as the "net normal cost percentage"), which
16 shall be the percentage such that the amount equal to
17 the product of such percentage and the present value
18 of future compensation for participants in the retire-
19 ment program, if paid annually into the Fund from the
20 date of hire of each participant in the retirement pro-
21 gram until the date of such participant's death, retire-
22 ment, or other withdrawal from employment covered
23 by the retirement program, is equal to the amount of
24 the difference between (i) the present value of the
25 future benefits payable from the Fund to such group,

1 and (ii) the present value of all future employee contri-
2 butions to the Fund.

3 (B) At the times specified in paragraph (2), the
4 actuary shall determine the amount (hereinafter in this
5 title referred to as the "accrued actuarial liability")
6 that is the difference between (i) the present value (as
7 of the date of the determination) of the future benefits
8 payable from the Fund, and (ii) the sum of—

9 (I) the present value of all future employee
10 contributions to the Fund; and

11 (II) the product of the net normal cost per-
12 centage and the present value of future compensa-
13 tion for participants in the retirement program.

14 (C) At the times specified in paragraph (2), the
15 enrolled actuary shall determine the current value of
16 the assets in the Fund.

17 (D) Each year, not later than sixty days prior to
18 the date on which the Mayor is required to submit the
19 annual budget for the government of the District of
20 Columbia to the Council under section 442(a) of the
21 District of Columbia Self-Government and Governmen-
22 tal Reorganization Act, the enrolled actuary shall de-
23 termine—

24 (i) an estimate of the current annual active
25 duty payroll;

1 (ii) the amount (hereinafter in this title re-
2 ferred to as the "future Federal obligation") that
3 is the amount of the present value of the sum of
4 the amounts authorized by section 144(a) to be
5 appropriated to the Fund for fiscal years begin-
6 ning on or after the date of the determination; and

7 (iii) the amount (hereinafter in this title re-
8 ferred to as the "net pay-as-you-go cost") that is
9 the difference between (I) the amount of the obli-
10 gation of the Fund during the next fiscal year for
11 the payment of benefits payable from the Fund
12 during such year, and (II) the amount of employ-
13 ee contributions to the Fund for such year.

14 The actuary shall also determine such additional information
15 as the Board may require in order to make the determina-
16 tions specified in paragraph (4) and in subsection (b).

17 (2) The actuary engaged by the Board pursuant to para-
18 graph (1) shall make the determinations described in subpara-
19 graphs (A), (B), and (C) of such paragraph at the following
20 times:

21 (A) Not later than sixty days after the date of the
22 enactment of this Act.

23 (B) Upon a request by the Board or by the Direc-
24 tor of the Office of Management and Budget.

1 (C) Not later than the end of the ninety-day
2 period beginning on the first day of the third fiscal year
3 occurring after the fiscal year in which the last such
4 determination was made pursuant to any subparagraph
5 of this paragraph.

6 (3) On the basis of the most recent determinations made
7 under paragraph (1), the enrolled actuary shall certify to the
8 Board each year, at a time specified by the Board, the follow-
9 ing information with respect to each Fund for the next fiscal
10 year:

11 (A) The net normal cost, which shall be computed
12 as the product of the net normal cost percentage and
13 the estimate by the actuary of the current annual
14 active duty payroll.

15 (B) The accrued actuarial liability.

16 (C) The current value of assets in the Fund.

17 (D) The future Federal obligation.

18 (E) The net pay-as-you-go cost.

19 (F) The unfunded actuarial liability, which shall
20 be computed as the difference between the accrued ac-
21 tuarial liability and the sum of the current value of the
22 assets in the Fund and the future Federal obligation.

23 (G) The unpaid Federal obligation, which shall be
24 computed as the difference between the accrued actu-
25 arial liability as of January 2, 1975 (in future value as

1 of the end of the fiscal year for which the determina-
2 tion is made), and the sum of the future Federal obli-
3 gation, the current value of previous Federal contribu-
4 tions, and (in the case of the District of Columbia
5 Teachers' Retirement Fund and the District of Colum-
6 bia Judges' Retirement Fund) the current value of any
7 assets in the predecessor to such Fund as of January
8 2, 1975.

9 For the purposes of subparagraph (F), the term "current
10 value of the assets in the Fund" shall be deemed to include (i)
11 the present value of any payments to be made to the Fund by
12 the District in accordance with subsection (b)(1)(C)(ii), and (ii)
13 the present value of the amount of any reduction in the
14 amount of future District payments to the Fund determined
15 in accordance with subsection (b)(1)(D).

16 (4) The Board shall determine—

17 (A) the amount of the Federal payment for the
18 next fiscal year for each Fund authorized to be appro-
19 priated under section 144(a); and

20 (B) on the basis of the most recent certification
21 submitted by the enrolled actuary under paragraph (3),
22 the amount of the District payment for the next fiscal
23 year for each Fund, as described under subsection (b).

1 (b)(1)(A) For the District payment for each Fund for
2 each fiscal year through fiscal year 2004, the Board shall
3 determine—

4 (i) the unfunded actuarial liability for such Fund
5 as of the end of fiscal year 2004;

6 (ii) the unfunded actuarial liability as of October
7 1, 1979, in future value as of the end of fiscal year
8 2004 for such Fund; and

9 (iii) the amount equal to the lesser of (I) the net
10 pay-as-you-go cost, and (II) the sum of the net normal
11 cost and the amount of annual interest (computed at
12 the valuation rate used in the determination under sub-
13 section (a)(1)) on the unfunded actuarial liability, as
14 computed under subsection (a)(3)(F).

15 (B) If the amount determined under subparagraph (A)(i)
16 is equal to the amount determined under subparagraph (A)(ii),
17 the amount of the District payment for the fiscal year for
18 such Fund shall be the amount determined under subpara-
19 graph (A)(iii).

20 (C)(i) If the amount determined under subparagraph
21 (A)(i) is greater than the amount determined under subpara-
22 graph (A)(ii), the amount of the District payment for the
23 fiscal year for such Fund shall be the amount equal to the
24 sum of (I) the amount determined under subparagraph (A)(iii),
25 and (II) the amount of the level amortization payment that, if

1 paid annually into the Fund through the next ten fiscal years
2 (and accrued at the rate of interest used in the determinations
3 under subsection (a)(1), would reduce the amount determined
4 under subparagraph (A)(i) to the amount determined under
5 subparagraph (A)(ii) by the end of such ten fiscal years.

6 (ii) A level amortization payment shall not be required
7 under this subparagraph for any fiscal year to the extent that
8 the difference between the amount determined under subpar-
9 agraph (A)(i) and the amount determined under subparagraph
10 (A)(ii) for such fiscal year is attributable to the failure of the
11 Federal Government to make all or any part of the Federal
12 payment to such Fund for any fiscal year.

13 (D) If the amount determined under subparagraph (A)(ii)
14 is greater than the amount determined under subparagraph
15 (A)(i), the amount of the District payment for such Fund shall
16 be the amount determined under subparagraph (A)(iii) re-
17 duced by the amount of the level amortization payment that,
18 if paid annually for the next ten fiscal years, would have a
19 future value as of the end of fiscal year 2004 equal to the
20 difference between the amount determined under subpara-
21 graph (A)(ii) and the amount determined under subparagraph
22 (A)(i).

23 (E) The amount of a District payment determined under
24 subparagraph (C) may not exceed the amount determined
25 under subparagraph (A)(iii) by more than 10 percent of the

1 net pay-as-you-go cost, in the case of a payment to the Dis-
2 trict of Columbia Police Officers and Fire Fighters' Retire-
3 ment Fund, or by more than 30 percent of the net pay-as-
4 you-go cost, in the case of a payment to the District of Co-
5 lumbia Teachers' Retirement Fund or to the District of Co-
6 lumbia Judges' Retirement Fund.

7 (F) Determinations under subparagraph (A) shall be
8 made in accordance with generally accepted actuarial princi-
9 ples and practices.

10 (2) The amount of the District payment to each Fund
11 for fiscal year 2005 and for each fiscal year thereafter shall
12 be the sum of (A) the net normal cost, and (B) the amount of
13 annual interest (computed at the valuation rate used in the
14 determination pursuant to subsection (a)(1)) on the unfunded
15 actuarial liability.

16 (c)(1) On the basis of the most recent determinations
17 made under subsection (a)(4), the Board shall—

18 (A) not later than March 15 of each year through
19 calendar year 2003, submit to the President and to the
20 Congress a request for appropriation of the Federal
21 payment for the next fiscal year for each Fund; and

22 (B) not less than thirty days prior to the date on
23 which the Mayor is required to submit the annual
24 budget for the government of the District of Columbia
25 to the Council under section 442(a) of the District of

1 Columbia Self-Government and Governmental Reorga-
2 nization Act, certify to the Mayor and the Council the
3 amount of the District payment for each Fund.

4 (2) The Mayor, in preparing each annual budget for the
5 District of Columbia pursuant to section 442(a) of the Dis-
6 trict of Columbia Self-Government and Governmental Reor-
7 ganization Act, and the Council of the District of Columbia,
8 in adopting each annual budget in accordance with section
9 446 of such Act, shall include in such budget not less than
10 the full amount certified by the Board under paragraph (1)(B)
11 as being the amount of the District payment for the next
12 fiscal year for each Fund. The Mayor and the Council may
13 comment and make recommendations concerning any such
14 amount certified by the Board.

15 (d)(1) Whenever any change in benefits under a retire-
16 ment program is made, the Mayor shall engage an enrolled
17 actuary, who may be the enrolled actuary engaged pursuant
18 to section 162(a)(4)(A), to estimate the effect of such change
19 in benefits over the next five fiscal years on (A) the net
20 normal cost percentage with respect to the retirement pro-
21 gram, (B) the accrued actuarial liability with respect to the
22 retirement program, (C) the net pay-as-you-go cost with re-
23 spect to the retirement program, and (D) the level of the
24 District payments to the Fund. The Mayor shall transmit the
25 estimates of the actuary under the preceding sentence to the

1 Board and to the Speaker and the President pro tempore,
2 and such change in benefits may not go into effect until the
3 end of the thirty-day period beginning on the date such trans-
4 mittals are completed.

5 (2) In the event a change in benefits under a retirement
6 program is made that increases the present value of benefits
7 payable from the Fund, a level amortization payment for a
8 period not to exceed 25 years shall be paid by the District to
9 the Fund such that the present value of the sum of such level
10 amortization payments equals the increase in the present
11 value of such benefits. Such payments shall be made in addi-
12 tion to any other payment to the Fund required to be made
13 by the District, and such increase in present value of benefits
14 payable from the Fund and such payments shall be disregard-
15 ed in calculating the unfunded actuarial liability under sub-
16 section (b)(1)(A).

17 (e) Whenever the amount authorized to be appropriated
18 to the District of Columbia Police Officers and Fire Fighters'
19 Retirement Fund for any fiscal year under section 144(a)(1)
20 is reduced under section 145(c), the District shall, beginning
21 with the next fiscal year, pay a level amortization payment to
22 such Fund for a period not to exceed ten years such that the
23 present value (determined as of the beginning of the fiscal
24 year for which such authorization is reduced) of the sum of
25 such level amortization payments equals the amount of such

1 reduction. Such payments shall be made in addition to any
2 other payment to such Fund required to be made by the Dis-
3 trict and shall be disregarded in calculating the unfunded ac-
4 tuarial liability under subsection (b)(1)(A).

5 (f) The Comptroller General of the United States shall
6 have access to all books, accounts, records, reports, files and
7 other papers necessary to carry out the responsibility of the
8 Comptroller General under section 736(a) of the District of
9 Columbia Self-Government and Governmental Reorganiza-
10 tion Act and under section 144(e) of this Act.

11 INFORMATION ABOUT RETIREMENT PROGRAMS

12 SEC. 143. Upon a request of the Board, the Mayor shall
13 furnish to the Board such information with respect to retire-
14 ment programs to which this title applies as the Board con-
15 siders necessary to enable it to carry out its responsibilities
16 under this title and to enable the enrolled actuary engaged
17 pursuant to section 142(a) to carry out the responsibilities of
18 the enrolled actuary under this title.

19 FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE
20 FUNDS

21 SEC. 144. (a) There is authorized to be appropriated
22 from the revenues of the United States for fiscal year 1980
23 and for each fiscal year thereafter through fiscal year 2004—

24 (1) as the Federal payment to the District of Co-
25 lumbia Police Officers and Fire Fighters' Retirement

1 Fund, the sum of \$39,445,000, reduced by the amount
2 of any reduction required under section 145(c);

3 (2) as the Federal payment to the District of Co-
4 lumbia Teachers' Retirement Fund, the sum of
5 \$21,827,000; and

6 (3) as the Federal payment to the District of Co-
7 lumbia Judges' Retirement Fund, the sum of
8 \$287,000.

9 (b)(1) Amounts appropriated as a Federal payment to a
10 Fund established by this title shall not be subject to appor-
11 tionment and shall be deposited in the appropriate Fund not
12 more than thirty days after they are appropriated or thirty
13 days after the beginning of the fiscal year for which they are
14 appropriated, whichever is later.

15 (2) Amounts appropriated as a District of Columbia pay-
16 ment to a Fund established by this title shall be deposited in
17 the appropriate Fund in equal quarterly installments, the first
18 of which shall be made on the first day of the first quarter of
19 the fiscal year, or on the first day thereafter that funds for
20 such installment become available, and the remainder of
21 which shall be made on the first day of succeeding quarters of
22 the fiscal year, or on the first day thereafter that funds for
23 such installments become available.

24 (c) If at any time the balance of any Fund established by
25 this title is not sufficient to meet all obligations against such

1 Fund, such Fund shall have a claim on the revenues of the
2 District of Columbia to the extent necessary to meet such
3 obligations.

4 (d) If, for any fiscal year, the Mayor and the Council do
5 not carry out the requirements of subsections (c)(2), (d), and
6 (e) of section 142 with respect to a Fund, no funds authorized
7 to be appropriated for such Fund by this section shall be
8 available for such Fund for such fiscal year.

9 (e)(1) In the year 2004, the Comptroller General shall
10 determine whether the Federal share with respect to each
11 Fund has been paid in full by payments made pursuant to
12 appropriations authorized under subsection (a) of this section
13 and, in the case of the District of Columbia Police Officers
14 and Fire Fighters' Retirement Fund, by payments made or to
15 be made under section 142(e).

16 (2) For the purposes of this subsection, the term "Fed-
17 eral share", with respect to a retirement program, means the
18 sum of—

19 (A) 100 percent of the accrued unfunded liability
20 as of October 1, 1979, for participants in the retire-
21 ment program who retired before January 2, 1975,
22 under a provision of law authorizing retirement and en-
23 titlement to an annuity based upon the years of credit-
24 able service of the participant (and for the beneficiaries
25 of such participants under the retirement program); and

1 (B) 33 $\frac{1}{3}$ percent of the accrued unfunded liability
2 as of October 1, 1979, for participants in the retire-
3 ment program who retired before January 2, 1975,
4 under a provision of law authorizing retirement and en-
5 titlement to an annuity based upon a disease or disabil-
6 ity from which the participant is suffering (and for the
7 beneficiaries of such participants under the retirement
8 program).

9 REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE
10 NUMBER OF POLICE AND FIRE DISABILITY RETIREMENTS

11 SEC. 145. (a) After January 1 and before March 1 of
12 each year beginning with calendar year 1982 and ending
13 with calendar year 2003, the Comptroller General of the
14 United States shall—

15 (1) determine the percentage of the total number
16 of officers and members of the Metropolitan Police
17 force and the Fire Department of the District of Co-
18 lumbia who retired, died, withdrew by taking out a
19 lump sum payment, or otherwise separated from active
20 duty while eligible for a deferred annuity under the Po-
21 licemen and Firemen's Retirement and Disability Act
22 during the preceding calendar year who retired with a
23 disability under subsection (f)(1) or (g)(1) of the Police
24 and Firemen's Retirement and Disability Act;

1 (2) determine the percentages of the total number
2 of officers and members of the police and fire depart-
3 ments of each of the five largest police and fire depart-
4 ments combined of cities in the United States (based
5 upon the most recent figures of the Bureau of the
6 Census and excluding the District of Columbia) who
7 retired (or otherwise separated while eligible to retire)
8 during the preceding calendar year who retired with a
9 disability; and

10 (3) state whether the percentage determined
11 under paragraph (1) is greater than the average of the
12 percentages determined under paragraph (2) and, if the
13 percentage determined under paragraph (1) is greater
14 than such average, what the difference between the
15 two is.

16 The Comptroller General shall report the determinations and
17 statements made under paragraphs (1) through (3) for any
18 year to the Board not later than March 1 of such year.

19 (b) The Board and the Comptroller General shall each
20 transmit a copy of each report under subsection (a) to the
21 Speaker, the President pro tempore, the Mayor, and the
22 Council not later than March 31 of the year in which the
23 report is made, and each shall submit comments on such
24 report.

1 (c) For the fiscal year beginning in a calendar year in
2 which the report of the Comptroller General under subsection
3 (a) includes a statement under paragraph (3) of such subsec-
4 tion that the percentage determined under paragraph (1) of
5 such subsection is greater than the average of the percent-
6 ages determined under paragraph (2) of such subsection, the
7 amount authorized by section 144(a)(1) to be appropriated to
8 the District of Columbia Police Officers and Fire Fighters'
9 Retirement Fund for such fiscal year shall be reduced. Such
10 reduction shall be in the amount equal to the product of (1)
11 the amount specified in such section, and (2) the difference
12 between the percentage determined under paragraph (1) of
13 subsection (a) and the average of the percentages determined
14 under paragraph (2) of such subsection, as stated by the
15 Comptroller General under paragraph (3) of such subsection.

16 DETERMINATION OF PERCENTAGE OF DISABILITY FOR
17 CURRENT EMPLOYEES WHO APPLY FOR DISABILITY
18 RETIREMENT

19 SEC. 146. (a) Whenever during calendar year 1980 or
20 any subsequent calendar year through calendar year 2002 an
21 officer or member of the Metropolitan Police force or the Fire
22 Department of the District of Columbia who first became
23 such an officer or member of such force or department before
24 the end of the ninety-day period beginning on the date of the
25 enactment of this Act completes five years of police and fire

1 service (as determined under subsection (c) of the Policemen
2 and Firemen's Retirement and Disability Act) and retires (or
3 applies for retirement) under subsection (f)(1) or (g)(1) of the
4 Policemen and Firemen's Disability Act, the Board of Police
5 and Fire Surgeons shall determine, within a reasonable time
6 and in accordance with the regulations promulgated by the
7 Mayor in accordance with subsection (g)(5) of such Act, the
8 percentage of impairment of such officer or member and shall
9 report such percentage of impairment to the Police and Fire-
10 men's Retirement and Relief Board. In the case of such offi-
11 cer or member, such Board shall determine, within a reason-
12 able time, the percentage of disability of such officer or
13 member giving due regard to—

- 14 (1) the nature of the injury or disease;
- 15 (2) the percentage of impairment reported pursu-
16 ant to the preceding sentence;
- 17 (3) the position in the Metropolitan Police force or
18 the Fire Department of the District of Columbia held
19 by the officer or member immediately prior to such of-
20 ficer or member's retirement;
- 21 (4) the age and years of service of the officer or
22 member; and
- 23 (5) any other factor or circumstance which may
24 affect the capacity of the officer or member to earn
25 wages or engage in gainful activity in his disabled con-

1 dition, including the effect of the disability as it may
2 naturally extend into the future.

3 (b) The Police and Firemen's Relief Board, on or before
4 January 31 of each calendar year from 1981 through 2003,
5 shall make available to the Speaker, the President pro tem-
6 pore, the Mayor, the Council, the Comptroller General, and
7 the enrolled actuary—

8 (1) all determinations (including related documents
9 and information) made during the preceding calendar
10 year pursuant to subsection (a) of this section; and

11 (2) the decisions of the Board on the type of an-
12 nuity to be awarded to officers and members subject to
13 a determination under subsection (a) during such year.

14 CONFORMING AMENDMENTS

15 SEC. 147. (a)(1) Section 7 of the Act entitled "An Act
16 for the retirement of public-school teachers in the District of
17 Columbia", approved August 7, 1946 (D.C. Code, sec.
18 31-727), is repealed.

19 (2) Section 14 of such Act of August 7, 1946 (D.C.
20 Code, sec. 31-734), is amended—

21 (A) in the third sentence, by striking out "The"
22 and inserting in lieu thereof "Until such time as all
23 amounts in the teachers' retirement and annuity fund
24 have been expended or transferred to the District of
25 Columbia Teachers' Retirement Fund established by

1 section 123(a) of the District of Columbia Retirement
2 Reform Act, the''; and

3 (B) by striking out the fourth sentence.

4 (3) Section 15 of such Act of August 7, 1946 (D.C.
5 Code, sec. 31-735), is repealed.

6 (b) The proviso in the fourth paragraph (relating to Dis-
7 trict government retirement and relief funds) under the head-
8 ing "Compensation and Retirement Fund Expenses" in the
9 Act of July 31, 1953 (D.C. Code, sec. 31-716a), is repealed.

10 (c)(1) Section 7 of the Act entitled "An Act for the re-
11 tirement of public-school teachers in the District of Colum-
12 bia", approved January 15, 1920 (D.C. Code, sec. 31-707),
13 is amended by striking out the second and third sentences of
14 the first paragraph.

15 (2) Section 14 of such Act of January 15, 1920 (D.C.
16 Code, sec. 31-715), is amended by striking out the third and
17 fourth sentences.

18 (3) Section 15 of such Act of January 15, 1920 (D.C.
19 Code, sec. 31-716), is repealed.

20 PART D—REPORTING AND DISCLOSURE REQUIREMENTS

21 PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

22 SEC. 161. (a) Each member of the Board shall, within
23 ninety days of his selection as a member of the Board and not
24 later than April 30 of each year thereafter, submit to the
25 Mayor, the Council, the Speaker, and the President pro tem-

1 pore a personal financial disclosure statement with respect to
2 the preceding calendar year. Such statement shall be in such
3 form as the Council may by regulation require and shall con-
4 tain such information with respect to the member's financial
5 condition as the Council may by regulation require, including
6 the following information:

7 (1) The amount and source of all income (as de-
8 fined in section 61 of the Internal Revenue Code of
9 1954) received during the year.

10 (2) The identity and category of value of each lia-
11 bility owned, directly or indirectly, that exceeds \$2,500
12 as of the last day of the year (excluding any mortgage
13 that secures real property that is the principal resi-
14 dence of such member).

15 (3) The identity and category of value of any
16 property held, directly or indirectly, in a trade or busi-
17 ness or for investment or the production of income that
18 has a fair market value of not less than \$1,000 as of
19 the last day of the year.

20 (4) The identity and category of value of any
21 transaction, whether direct or indirect, in securities or
22 commodities futures during the year in excess of
23 \$1,000 (excluding any gift to any tax-exempt organiza-
24 tion described in section 501(c)(3) of the Internal Reve-
25 nue Code of 1954), and the identity, date, and catego-

1 ry of value of any purchase or sale, whether direct or
2 indirect, of any interest in real or tangible personal
3 property during the year the value of which exceeds
4 \$1,000 at the time of such purchase or sale (excluding
5 any purchase or sale of any property that is the princi-
6 pal residence of such member or that is used as fur-
7 nishings for such principal residence).

8 (5) The nature and extent of any interest during
9 the year in any bank, insurance company, or other fi-
10 nancial institution, or in any brokerage or other securi-
11 ties or investment company.

12 (6) The nature and extent of any employment
13 during the year by any bank, insurance company, or
14 other financial institution, or by any brokerage or other
15 securities or investment company.

16 A member shall not be required to submit a personal financial
17 disclosure statement to the Speaker and the President pro
18 tempore for calendar years after calendar year 2004.

19 (b) For purposes of paragraphs (2), (3), and (4) of sub-
20 section (a), the member reporting need not specify the actual
21 amount of value of each item required to be reported under
22 such paragraphs, but shall indicate which of the following
23 categories such amount or value is within:

24 (1) Not more than \$5,000.

1 (2) Greater than \$5,000 but not more than
2 \$15,000.

3 (3) Greater than \$15,000 but not more than
4 \$50,000.

5 (4) Greater than \$50,000 but not more than
6 \$100,000.

7 (5) Greater than \$100,000.

8 ANNUAL REPORTS

9 SEC. 162. (a)(1)(A) The Board shall publish an annual
10 report for each fiscal year (beginning with fiscal year 1980)
11 with respect to each retirement program to which this title
12 applies and with respect to the Fund for such retirement pro-
13 gram. Such report shall be filed with the Mayor, the Council,
14 the Speaker, and the President pro tempore in accordance
15 with section 164(a) and shall be made available and furnished
16 to participants and beneficiaries in accordance with section
17 164(b).

18 (B) The annual report shall include the information de-
19 scribed in subsections (b), (c), (d), and (e) and, when applica-
20 ble, subsection (f), and shall also include—

21 (i) the financial statement and opinion required by
22 paragraph (3) of this subsection; and

23 (ii) the actuarial statement and opinion required
24 by paragraph (4) of this subsection.

1 (2) If some or all of the information needed to enable the
2 Board to comply with the requirements of this title is main-
3 tained by—

4 (A) an insurance carrier or other organization
5 which provides some or all of the benefits under the
6 retirement program, or holds assets of the Fund for
7 such retirement program in a separate account;

8 (B) a bank or similar institution which holds some
9 or all of the assets of the Fund in a common or collec-
10 tive trust or a separate trust, or custodial account; or

11 (C) the Mayor (or the Police and Firemen's Re-
12 tirement and Relief Board, established pursuant to sec-
13 tion 122 of the Act of September 3, 1974, in carrying
14 out the Mayor's responsibilities under the Policemen
15 and Firemen's Retirement and Disability Act);

16 such carrier, organization, bank, or institution, or the Mayor,
17 shall transmit and certify the accuracy of such information to
18 the Board within one hundred and twenty days after the end
19 of the fiscal year (or such other date as may be prescribed
20 under regulations of the Board).

21 (3)(A) Except as provided in subparagraphs (C), the
22 Board shall engage an independent qualified public account-
23 ant who shall conduct such examination of any financial
24 statements of the Fund, and of other books and records of the
25 Fund or the retirement program, as the accountant may

1 deem necessary to enable the accountant to form an opinion
2 as to whether the financial statements and schedules required
3 to be included in the annual report by subsection (b) of this
4 section are presented fairly in conformity with generally ac-
5 cepted accounting principles applied on a basis consistent
6 with that of the preceding year. Such examination shall be
7 conducted in accordance with generally accepted auditing
8 standards and shall involve such tests of the books and rec-
9 ords of the Fund and the retirement program as are consid-
10 ered necessary by the independent qualified public account-
11 ant. The independent qualified public accountant shall also
12 offer his opinion as to whether the separate schedules speci-
13 fied in subsection (b)(2) of this section and the summary ma-
14 terial required under section 164(b)(2) present fairly, and in
15 all material respects, the information contained therein when
16 considered in conjunction with the financial statements taken
17 as a whole. The opinion by the independent qualified public
18 accountants shall be made a part of the annual report.

19 (B) In offering his opinion under this section, the ac-
20 countant may rely on the correctness of any actuarial matter
21 certified to by an enrolled actuary if he so states his reliance.

22 (C) The opinion required by subparagraph (A) need not
23 be expressed as to any statements required by subsection
24 (b)(2)(G) prepared by a bank or similar institution or insur-
25 ance carrier regulated and supervised and subject to periodic

1 examination by a State or Federal agency if such statements
2 are certified by the bank, similar institution, or insurance car-
3 rier as accurate and are made a part of the annual report.

4 (4)(A) The Board shall engage an enrolled actuary who
5 shall be responsible for the preparation of the materials com-
6 prising the actuarial statement required under subsection (d)
7 of this section.

8 (B) The enrolled actuary shall utilize such assumptions
9 and techniques as are necessary to enable him to form an
10 opinion as to whether the contents of the matters reported
11 under subsection (d) of this section—

12 (i) are in the aggregate reasonably related to the
13 experience of the Fund and the retirement program
14 and to reasonable expectations; and

15 (ii) represent his best estimate of anticipated expe-
16 rience under the Fund and the retirement program.

17 The opinion by the enrolled actuary shall be made with re-
18 spect to, and shall be made a part of, each annual report.

19 (C) In making a certification under this section, the en-
20 rolled actuary may rely on the correctness of any accounting
21 matter under subsection (b) as to which any qualified public
22 accountant has expressed an opinion if he so states his reli-
23 ance.

24 (b)(1) An annual report under this section shall include a
25 financial statement containing a statement of assets and li-

1 abilities, and a statement of changes in net assets available
2 for benefits under the retirement program, which shall in-
3 clude details of revenues and expenses and other changes
4 aggregated by general source and application. In the notes to
5 financial statements, disclosures concerning the following
6 items shall be considered by the accountant: A description of
7 the retirement program, including any significant changes in
8 the retirement program made during the period and the
9 impact of such changes on benefits; the funding policy (in-
10 cluding the policy with respect to prior service cost), and any
11 changes in such policy during the year; a description of any
12 significant changes in benefits made during the period; a de-
13 scription of material lease commitments, other commitments,
14 and contingent liabilities; a description of agreements and
15 transactions with persons known to be parties in interest; and
16 any other matters necessary to fully and fairly present the
17 financial statements of the Fund.

18 (2) The statement required under paragraph (1) shall
19 have attached the following information in separate sched-
20 ules:

21 (A) A statement of the assets and liabilities of the
22 Fund, aggregated by categories and valued at their
23 current value, and the same data displayed in compara-
24 tive form for the end of the previous fiscal year.

1 (B) A statement of receipts in and disbursements
2 from the Fund during the preceding twelve-month
3 period, aggregated by general source and application.

4 (C) A schedule of all assets held for investment
5 purposes, aggregated and indentified by issuer, borrow-
6 er, or lessor, or similar party to the transaction (includ-
7 ing a notation as to whether such party is known to be
8 a party in interest), maturity date, rate of interest, col-
9 lateral, par or maturity value, cost, and current value.

10 (D) A schedule of each transaction involving a
11 person known to be a party in interest, the identity of
12 such party in interest and his relationship or that of
13 any other party in interest to the Fund, a description
14 of each asset to which the transaction relates; the pur-
15 chase or selling price in case of a sale or purchase, the
16 rental in case of a lease, or the interest rate and
17 maturity date in case of a loan; expenses incurred in
18 connection with the transaction; the cost of the asset,
19 the current value of the asset, and the net gain or loss
20 on each transaction.

21 (E) A schedule of all loans or fixed income obliga-
22 tions which were in default as of the close of the fiscal
23 year or were classified during the year as uncollectable
24 and the following information with respect to each loan
25 on such schedule (including a notation as to whether

1 parties involved are known to be parties in interest):
2 The original principal amount of the loan, the amount
3 of principal and interest received during the reporting
4 year, the unpaid balance, the identity and address of
5 the obligor, a detailed description of the loan (including
6 date of making and maturity, interest rate, the type
7 and value of collateral, and other material terms), the
8 amount of principal and interest overdue (if any) and
9 an explanation thereof.

10 (F) A list of all leases which were in default or
11 were classified during the year as uncollectable and the
12 following information with respect to each lease on
13 such list (including a notation as to whether parties in-
14 volved are known to be parties in interest): The type of
15 property leased (and, in the case of fixed assets such as
16 land, buildings, and leaseholds, the location of the
17 property); the identity of the lessor or lessee from or to
18 whom the Fund is leasing; the relationship of such les-
19 sors and lessees, if any, to the Fund, the government
20 of the District of Columbia, any employee organization,
21 or any other party in interest; the terms of the lease
22 regarding rent, taxes, insurance, repairs, expenses, and
23 renewal options; the date the leased property was pur-
24 chased and its cost; the date the property was leased
25 and its approximate value at such date, the gross

1 rental receipts during the reporting period, expenses
2 paid for the leased property during the reporting
3 period, the net receipts from the lease, the amounts in
4 arrears, and a statement as to what steps have been
5 taken to collect amounts due or otherwise remedy the
6 default.

7 (G) The most recent annual statement of assets
8 and liabilities of any common or collective trust main-
9 tained by a bank or similar institution in which some
10 or all the assets of the Fund are held, of any separate
11 account maintained by an insurance carrier in which
12 some or all of the assets of the Fund are held, and of
13 any separate trust maintained by a bank as trustee in
14 which some or all of the assets of the Fund are held,
15 and in the case of a separate account or a separate
16 trust, such other information as may be required by the
17 Board in order to comply with this subsection.

18 (H) A schedule of each reportable transaction, the
19 name of each party to the transaction (except that, in
20 the case of an acquisition or sale of a security on the
21 market, the report need not identify the person from
22 whom the security was acquired or to whom it was
23 sold) and a description of each asset to which the
24 transaction applies; the purchase or selling price in
25 case of a sale or purchase, the rental in case of a

1 lease, or the interest rate and maturity date in case of
2 a loan; expenses incurred in connection with the trans-
3 action; the cost of the asset, the current value of the
4 asset, and the net gain or loss on each transaction.

5 (3) For purposes of subparagraph (H) of paragraph (2),
6 the term "reportable transaction" means a transaction to
7 which the Fund is a party and which is—

8 (A) a transaction involving an amount in excess of
9 3 percent of the current value of the assets of the
10 Fund;

11 (B) any transaction (other than a transaction re-
12 specting a security) which is part of a series of transac-
13 tions with or in conjunction with a person in a fiscal
14 year, if the aggregate amount of such transactions
15 exceed 3 percent of the current value of the assets of
16 the Fund;

17 (C) a transaction which is part of a series of
18 transactions respecting one or more securities of the
19 same issuer, if the aggregate amount of such transac-
20 tions in the fiscal year exceeds 3 percent of the current
21 value of the assets of the Fund; or

22 (D) a transaction with or in conjunction with a
23 person respecting a security, if any other transaction
24 with or in conjunction with such person in the fiscal

1 year respecting a security is required to be reported by
2 reason of subparagraph (A).

3 (c) The Board shall furnish as a part of an annual report
4 under this section the following information:

5 (1) The number of individuals covered by the re-
6 tirement program.

7 (2) The name and address of each member of the
8 Board.

9 (3) Except in the case of a person whose compen-
10 sation is minimal (as determined under regulations of
11 the Council, which regulations the Council shall initial-
12 ly promulgate within ninety days after the date of the
13 enactment of this Act) and who performs solely minis-
14 terial duties (as determined under such regulations),
15 the name of each person (including any consultant,
16 broker, trustee, accountant, insurance carrier, actuary,
17 administrator, investment counsel, or custodian who
18 rendered services to the Board or who had transactions
19 with the Board) who directly or indirectly received
20 compensation from the Board during the preceding
21 year for services rendered to the Board or the partici-
22 pants or beneficiaries of the retirement program for
23 which a Fund was established, the amount of such
24 compensation, the nature of his services, his relation-
25 ship, if any, to the District of Columbia government or

1 any employee organization, and any other officer, posi-
2 tion or employment he holds with any party in interest.

3 (4) An explanation of the reason for any change
4 in appointment of any accountant, insurance carrier,
5 enrolled actuary, or investment counsel appointed by
6 the Board.

7 (5) Such other financial and actuarial information
8 as the Council may by regulation prescribe.

9 (d) An annual report under this section for a fiscal year
10 shall include a complete actuarial statement applicable to the
11 fiscal year which shall include the following information:

12 (1) The date of the actuarial valuation applicable
13 to the fiscal year for which the report is filed.

14 (2) The date and amount of the payments to the
15 Fund for the fiscal year for which the report is filed
16 and contributions for prior fiscal years not previously
17 reported, including payments by the participants, the
18 United States, and the District of Columbia.

19 (3) The following information applicable to the
20 fiscal year for which the report is filed:

21 (A) The amounts determined under section
22 142(a)(1).

23 (B) The accrued liabilities.

24 (C) An identification of benefits not included
25 in the calculation.

1 (D) A statement of the other facts and actu-
2 arial assumptions and methods used to determine
3 costs.

4 (E) A justification for any change in actuar-
5 ial assumptions or cost methods.

6 (4) The number of participants and beneficiaries
7 covered by the retirement program.

8 (5) A certification of the amount of the payments
9 to the Fund necessary to reduce the accumulated fund-
10 ing deficiency to zero.

11 (6) A statement by the enrolled actuary of any
12 change in actuarial assumptions made with respect to
13 the Fund during the year.

14 (7) A statement by the enrolled actuary of the es-
15 timated current value of vested benefits under the re-
16 tirement program.

17 (8) A statement by the enrolled actuary that to
18 the best of his knowledge the report is complete and
19 accurate.

20 (9) A copy of the opinion required by subsection
21 (a)(4).

22 (10) Such other information regarding the retire-
23 ment program as the Council may by regulation
24 require.

1 (11) Such other information as the enrolled actu-
2 ary may determine is necessary to fully and fairly dis-
3 close the actuarial position of the Fund.

4 The actuary shall make an actuarial valuation of the Fund
5 for every third fiscal year, unless he determines that a more
6 frequent valuation is necessary to support his opinion under
7 subsection (a)(4) of this section.

8 (e) A report under this section for a fiscal year shall
9 include a statement prepared by the Board of—

10 (1) the relative riskiness of the investments during
11 the fiscal year of the assets of the Fund;

12 (2) a comparison of the average return on the in-
13 vestments of the Fund during the year with the aver-
14 age return on the investments of other public pension
15 funds during the year that have comparable asset valu-
16 ation; and

17 (3) the average daily balance of, and the average
18 rate earned by, assets of the Fund in each of any time
19 or demand deposits during the year.

20 (f) If some or all of the benefits under the retirement
21 program are purchased from and guaranteed by an insurance
22 company, insurance service, or other similar organization, a
23 report under this section shall include a statement from such
24 insurance company, service, or other similar organization
25 covering the fiscal year and enumerating—

1 (1) the premium rate or subscription charge and
2 the total premium or subscription charges paid to each
3 such carrier, insurance service, or other similar organi-
4 zation and the approximate number of persons covered
5 by each class of such benefits; and

6 (2) the total amount of premiums received, the ap-
7 proximate number of persons covered by each class of
8 benefits, and the total claims paid by such company,
9 service, or other organization; dividends or retroactive
10 rate adjustments, commissions, and administrative
11 service or other fees or other specific acquisition costs
12 paid by such company, service, or other organization;
13 any amounts held to provide benefits after retirement;
14 the remainder of such premiums; and the names and
15 addresses of the brokers, agents, or other persons to
16 whom commissions or fees were paid, the amount paid
17 to each, and for what purpose.

18 If any such company, service, or other organization does not
19 maintain separate experience records covering the specific
20 groups it serves, the report shall include, in lieu of the infor-
21 mation required by paragraph (2), a statement as to the basis
22 of its premium rate or subscription charge, the total amount
23 of premiums or subscription charges received from the Fund,
24 and a copy of the financial report of the company, service, or
25 other organization and, if such company, service, or organi-

1 zation incurs specific costs in connection with the acquisition
2 or retention of any particular Fund or Funds, a detailed
3 statement of such costs.

4 RETIREMENT PROGRAM SUMMARY DESCRIPTION

5 SEC. 163. (a)(1) A summary description of each retire-
6 ment program to which this Act applies shall be furnished to
7 participants and beneficiaries as provided in section 164(b).
8 The summary description shall include the information speci-
9 fied in subsection (b) of this section, shall be written in a
10 manner calculated to be understood by the average partici-
11 pant or beneficiary, and shall be sufficiently accurate and
12 comprehensive to reasonably apprise such participants and
13 beneficiaries of their rights and obligations under the retire-
14 ment program.

15 (2) A summary of any material modification in the terms
16 of the retirement program and any change in the information
17 required under subsection (b), written in a manner calculated
18 to be understood by the average participant or beneficiary,
19 shall be furnished in accordance with section 164(b)(1).

20 (b) Each summary description of a retirement program
21 shall contain the following information: The name and type of
22 administration of the retirement program; the name and ad-
23 dress of the chairman of the Board, who shall be the agent of
24 the Board for the service of legal process; the name, title,
25 and address of each member of the Board; a description of

1 the relevant provisions of applicable collective-bargaining
2 agreements; the retirement program's requirements respect-
3 ing eligibility for participation and benefits; a description of
4 the provisions providing for nonforfeitable pension benefits;
5 circumstances which may result in disqualification, ineligibil-
6 ity, or denial or loss of benefits; the identity of any organiza-
7 tion through which benefits are provided; the procedures to
8 be followed in presenting claims for benefits under the retire-
9 ment program; and the remedies available under the retire-
10 ment program for the redress of claims that are denied in
11 whole or in part.

12 FILING REPORTS AND FURNISHING INFORMATION TO
13 PARTICIPANTS

14 SEC. 164. (a)(1) The Board shall file with the Mayor,
15 the Council, the Speaker, and the President pro tempore—

16 (A) the annual reports for a fiscal year within two
17 hundred and ten days after the end of such year;

18 (B) a copy of each summary description of a re-
19 tirement program within one year after the date of the
20 enactment of this Act; and

21 (C) a revised summary description of a retirement
22 program, incorporating any material modification in the
23 terms of the retirement program, within sixty days
24 after such modification is adopted or occurs.

1 The Mayor shall make copies of such retirement program
2 descriptions and annual reports available for public inspection
3 in an appropriate location. The Board shall also furnish to
4 the Mayor, the Council, the Speaker, and the President pro
5 tempore, upon request, any documents relating to the retire-
6 ment program or the Fund, including any bargaining agree-
7 ment, trust agreement, contract, or other instrument under
8 which the retirement program or Fund is operated.

9 (2)(A) The Mayor or the Council may reject any filing
10 under this section within thirty days of such filing—

11 (i) upon determining that such filing is incomplete
12 for purposes of this part; or

13 (ii) upon determining that there is any material
14 qualification by an accountant or actuary contained in
15 an opinion submitted pursuant to section 162(a)(3)(A)
16 or section 162(a)(4)(B).

17 (B) If the Mayor or the Council rejects a filing of a
18 report under subparagraph (A), and if a revised filing satisfac-
19 tory to the Mayor or the Council is not submitted within
20 forty-five days after the determination under subparagraph
21 (A) to reject the filing is made, and if the Mayor or the Coun-
22 cil considers it in the best interest of the participants, then
23 the Mayor or the Council may take any one or more of the
24 following actions:

1 (i) Retain an independent qualified public account-
2 ant on behalf of the participants to perform an audit.

3 (ii) Retain an enrolled actuary on behalf of the
4 participants to prepare an actuarial statement.

5 (iii) Bring a civil action for such legal or equitable
6 relief as may be appropriate to enforce the provisions
7 of this title.

8 The Board shall permit any accountant or actuary so re-
9 tained to inspect whatever books and records of the Fund are
10 necessary for such audit.

11 (3)(A) Either House of Congress may reject any filing
12 under this section within thirty days of such filing by adopt-
13 ing a resolution stating that such House has determined—

14 (i) that such filing is incomplete for purposes of
15 this part; or

16 (ii) that there is any material qualification by an
17 accountant or actuary contained in an opinion submit-
18 ted pursuant to section 162(a)(3)(A) or section
19 162(a)(4)(B).

20 (B) If either House of Congress rejects a report under
21 subparagraph (A) and if either a revised filing is not submit-
22 ted within forty-five days after adoption of the resolution
23 under subparagraph (A) rejecting the initial filing or such re-
24 vised filing is rejected by either House of Congress by adop-
25 tion of a resolution within thirty days after submission of the

1 revised filing, then either House of Congress may, if it deems
2 it in the best interests of the participants, take any one or
3 more of the following actions:

4 (i) Retain an independent qualified public account-
5 ant on behalf of the participants to perform an audit.

6 (ii) Retain an enrolled actuary on behalf of the
7 participants to prepare an actuarial statement.

8 The Board and the Mayor shall permit any accountant or
9 actuary so retained to inspect whatever books and records of
10 the Fund and the retirement program are necessary for per-
11 forming such audit or preparing such statement.

12 (C) If a revised filing is rejected under subparagraph (B)
13 or if a filing required under this title is not made by the date
14 specified, no funds appropriated for the Fund with respect to
15 which such filing was required as part of the Federal pay-
16 ment may be paid to the Fund until such time as an accept-
17 able filing is made. For purposes of this subparagraph, a
18 filing is unacceptable if, within thirty days of its submission,
19 either House of Congress adopts a resolution disapproving
20 such filing.

21 (b) Publication of the summary retirement program de-
22 scriptions and annual reports shall be made to participants
23 and beneficiaries as follows:

24 (1) The Board shall furnish to each participant,
25 and to each beneficiary receiving benefits under the re-

1 retirement program, a copy of the summary retirement
2 program description and all modifications and changes
3 referred to in section 163(a) within ninety days after he
4 becomes a participant or in the case of a beneficiary,
5 within ninety days after he first receives benefits. The
6 Board shall furnish to each participant, and to each
7 beneficiary receiving benefits under the retirement pro-
8 gram, every fifth year an updated summary retirement
9 program description described in section 163 which in-
10 tegrates all retirement program amendments made
11 within such five-year period, except that in a case
12 where no amendments have been made to a retirement
13 program during such five-year period this sentence
14 shall not apply. Notwithstanding the foregoing sen-
15 tence, the Board shall furnish to each participant, and
16 to each beneficiary receiving benefits under the retire-
17 ment program, the summary retirement program de-
18 scription described in section 163 every tenth year. If
19 there is a modification or change described in section
20 163(a), a summary description of such modification or
21 change shall be furnished to each participant and to
22 each beneficiary who is receiving benefits under the re-
23 tirement program not later than two hundred and ten
24 days after the end of the fiscal year in which the
25 change is adopted.

1 (2) The Board shall make copies of the latest
2 annual report and of any bargaining agreement, trust
3 agreement, contract, or other instruments under which
4 the retirement program or the Fund is operated availa-
5 ble for examination by any participant or beneficiary in
6 the principal office of the Board and in such other
7 places as may be necessary to make available all perti-
8 nent information to all participants (including such
9 places as the Council may by regulation prescribe).

10 (3) Within two hundred and ten days after the
11 close of the fiscal year, the Board shall furnish to each
12 participant, and to each beneficiary receiving benefits
13 under the retirement program, a copy of the state-
14 ments and schedules described in subparagraphs (A)
15 and (B) of section 162(b)(2) for such fiscal year and
16 such other material as is necessary to fairly summarize
17 the latest annual report.

18 (4) The Board shall, upon written request of any
19 participant or beneficiary, furnish a copy of the latest
20 updated summary retirement program description, the
21 latest annual report, and any bargaining agreement,
22 trust agreement, contract, or other instruments under
23 which the retirement program or Fund is operated.
24 The Board may make a reasonable charge to cover the
25 cost of furnishing such copies. The Council may by

1 regulation prescribe the maximum amount that will
2 constitute a reasonable charge under the preceding
3 sentence.

4 (c) The Council may by regulation require that the
5 Board furnish to each participant and to each beneficiary re-
6 ceiving benefits under a retirement program a statement of
7 the rights of participants and beneficiaries under this title.

8 REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

9 SEC. 165. (a) The Board shall furnish to any participant
10 or beneficiary who so requests in writing, a statement indi-
11 cating, on the basis of the latest available information—

12 (1) the total benefits accrued, and

13 (2) the nonforfeitable retirement benefits, if any,
14 which have accrued, or the earliest date on which
15 benefits will become nonforfeitable.

16 (b) A participant or beneficiary is not entitled to receive
17 more than one report under subsection (a) during any twelve-
18 month period.

19 PUBLIC INFORMATION

20 SEC. 166. (a) Except as provided in subsection (b), the
21 contents of the descriptions, annual reports, statements, and
22 other documents filed with the Mayor, the Council, the
23 Speaker, and the President pro tempore pursuant to this part
24 shall be public information, and the Mayor, the Council, the
25 Speaker, and the President pro tempore shall each make

1 such documents available for inspection in an appropriate lo-
2 cation. The Mayor, the Council, the Speaker, and the Presi-
3 dent pro tempore may use the information and data in such
4 documents for statistical and research purposes and may
5 compile and publish such studies, analyses, reports, and sur-
6 veys based thereon as may be considered appropriate.

7 (b) Information described in section 165(a) with respect
8 to a participant or beneficiary of a retirement program may
9 be disclosed only to the extent that information respecting
10 that participant's or beneficiary's benefits under title II of the
11 Social Security Act may be disclosed under such Act.

12 (c) Except to the extent that information which is pro-
13 tected from public disclosure under subsection (b), or which
14 relates to personnel matters the disclosure of which would
15 constitute a clearly unwarranted invasion of personal privacy,
16 is involved, all meetings of the Board shall be open to the
17 public.

18 RETENTION OF RECORDS

19 SEC. 167. The Board shall maintain records on the mat-
20 ters required to be disclosed by this title which will provide in
21 sufficient detail the necessary basic information and data
22 from which the required documents may be verified, ex-
23 plained, or clarified, and checked for accuracy and complete-
24 ness, shall include vouchers, worksheets, receipts, and appli-
25 cable resolutions in such records, and shall keep such records

1 available for examination for a period of not less than six
2 years after the filing date of the documents based on the
3 information which they contain. Except to the extent that
4 information is involved which is protected from public disclo-
5 sure under section 166(b), all such records shall be available
6 for inspection by the public.

7 ADDITIONAL INFORMATION

8 SEC. 168. (a) In addition to the information specifically
9 required to be furnished by this part, the Board shall furnish
10 promptly such additional information as the Mayor, the
11 Council, the Speaker, or the President pro tempore may
12 request.

13 (b) The Board shall, at regular intervals to be deter-
14 mined by the Board, compile and publish all regulations then
15 in effect which were issued by the Board or the Council
16 under this title.

17 CRIMINAL PENALTIES

18 SEC. 169. Whoever willfully violates any provision of
19 this part (other than sections 165 and 168), or any regulation
20 or order issued under any such provision, shall be fined not
21 more than \$5,000 or imprisoned not more than one year, or
22 both, except that in the case of such a violation by a person
23 not an individual, such person shall be fined not more than
24 \$100,000.

1 PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

2 FIDUCIARY RESPONSIBILITIES

3 SEC. 181. (a)(1) The Board and each member of the
4 Board shall discharge responsibilities with respect to a Fund
5 as a fiduciary with respect to such Fund. The Board may
6 designate one or more other persons who exercise responsi-
7 bilities with respect to a Fund to exercise such responsibil-
8 ities as a fiduciary with respect to such Fund. The Board
9 shall retain such fiduciary responsibility for the exercise of
10 careful, skillful, prudent, and diligent oversight of any person
11 so designated as would be exercised by a prudent individual
12 acting in a like capacity and familiar with such matters under
13 like circumstances.

14 (2) A fiduciary shall discharge his duties with respect to
15 a Fund solely in the interest of the participants and beneficia-
16 ries and—

17 (A) for the exclusive purpose of providing benefits
18 to participants and their beneficiaries;

19 (B) with the care, skill, prudence, and diligence
20 under the circumstances then prevailing that a prudent
21 individual acting in a like capacity and familiar with
22 such matters would use in the conduct of an enterprise
23 of a like character and with like aims;

24 (C) by diversifying the investments of the Fund so
25 as to minimize the risk of large losses, unless under

1 the circumstances it is clearly prudent not to do so;
2 and

3 (D) in accordance with the provisions of law, doc-
4 uments, and instruments governing the retirement pro-
5 gram to the extent that such documents and instru-
6 ments are consistent with the provisions of this title.

7 (b) In addition to any liability which he may have under
8 any other provision of this part, a fiduciary with respect to a
9 Fund shall be liable for a breach of fiduciary responsibility of
10 another fiduciary with respect to the same Fund—

11 (1) if he knowingly participates in, or knowingly
12 undertakes to conceal, an act or omission of such other
13 fiduciary, knowing such act or omission is a breach of
14 fiduciary responsibility;

15 (2) if, by his failure to comply with subsection
16 (a)(2) in the administration of his specific responsibil-
17 ities which give rise to his status as a fiduciary, he has
18 enabled such other fiduciary to commit a breach of fi-
19 duciary responsibility; or

20 (3) if he has knowledge of a breach of fiduciary
21 responsibility by such other fiduciary, unless he makes
22 reasonable efforts under the circumstances to remedy
23 the breach.

24 (c) Except as provided in subsection (f), a fiduciary with
25 respect to a Fund shall not cause the Fund to engage in a

1 transaction, if he knows or should know that such transaction
2 constitutes a direct or indirect—

3 (1) sale or exchange, or leasing, of any property
4 between the Fund and a party in interest;

5 (2) lending of money or other extension of credit
6 between the Fund and a party in interest;

7 (3) furnishing of goods, services, or facilities be-
8 tween the Fund and a party in interest; or

9 (4) transfer to, or use by or for the benefit of, a
10 party in interest, of any assets of the Fund.

11 (d) A fiduciary with respect to a Fund shall not—

12 (1) deal with the assets of the Fund in his own
13 interest or for his own account;

14 (2) in his individual or in any other capacity act in
15 any transaction involving the Fund on behalf of a party
16 (or represent a party) whose interests are adverse to
17 the interests of the Fund or the interests of its partici-
18 pants or beneficiaries; or

19 (3) receive any consideration for his own personal
20 account from any party dealing with such Fund in con-
21 nection with a transaction involving the assets of the
22 Fund.

23 (e) A transfer of real or personal property by a party in
24 interest to a Fund shall be treated as a sale or exchange if
25 the property is subject to a mortgage or similar lien which

1 the Fund assumes or if it is subject to a mortgage or similar
2 lien which a party in interest placed on the property within
3 the ten-year period ending on the date of the transfer.

4 (f) The prohibitions provided in subsection (c) shall not
5 apply to any of the following transactions:

6 (1) Contracting or making reasonable arrange-
7 ments with a party in interest for office space, or legal,
8 accounting, or other services necessary for the estab-
9 lishment or operation of the Fund, if no more than rea-
10 sonable compensation is paid therefor.

11 (2) The investment of all or part of a Fund's
12 assets in deposits which bear a reasonable interest rate
13 in a bank or similar financial institution supervised by
14 the United States or a State, if such bank or other in-
15 stitution is a fiduciary of such Fund and if such invest-
16 ment is expressly authorized by regulations of the
17 Board or by a fiduciary (other than such bank or insti-
18 tution or affiliate thereof) who is expressly empowered
19 by the Board to make such investment.

20 (3) The providing of any ancillary service by a
21 bank or similar financial institution supervised by the
22 United States or a State if such bank or other institu-
23 tion is a fiduciary of such Fund and if—

24 (A) such bank or similar financial institution
25 has adopted adequate internal safeguards which

1 assure that the providing of such ancillary service
2 is consistent with sound banking and financial
3 practice, as determined by Federal or State super-
4 visory authority, and

5 (B) the extent to which such ancillary service
6 is provided is subject to specific guidelines issued
7 by such bank or similar financial institution (as
8 determined by the Mayor after consultation with
9 Federal and State supervisory authority), and ad-
10 herence to such guidelines would reasonably pre-
11 clude such bank or similar financial institution
12 from providing such ancillary service (i) in an ex-
13 cessive or unreasonable manner, and (ii) in a
14 manner that would be inconsistent with the best
15 interests of participants and beneficiaries of the
16 retirement program.

17 Such ancillary services shall not be provided at more
18 than reasonable compensation.

19 (4) The exercise of a privilege to convert securi-
20 ties, to the extent provided in regulations of the Coun-
21 cil, but only if the Fund receives no less than adequate
22 consideration pursuant to such conversion.

23 (5) Any transaction between a Fund and a
24 common or collective trust fund or pooled investment
25 fund maintained by a party in interest which is a bank

1 or trust company supervised by a State or Federal
2 agency, or a pooled investment fund of an insurance
3 company qualified to do business in a State, if—

4 (A) the transaction is a sale or purchase of
5 an interest in the Fund;

6 (B) the bank, trust company, or insurance
7 company receives not more than reasonable com-
8 pensation; and

9 (C) such transaction is expressly permitted
10 by the Board, or by a fiduciary (other than the
11 bank, trust company, insurance company, or an
12 affiliate thereof) who has authority to manage and
13 control the assets of the Fund.

14 (g) Nothing in subsection (c) shall be construed to pro-
15 hibit any fiduciary from—

16 (1) receiving any benefit to which he may be enti-
17 tled as a participant or beneficiary in the retirement
18 program, so long as the benefit is computed and paid
19 on a basis which is consistent with the terms of the
20 retirement program as applied to all other participants
21 and beneficiaries;

22 (2) receiving any reasonable compensation for
23 services rendered, or for the reimbursement of ex-
24 penses properly and actually incurred, in the perform-
25 ance of his duties with respect to the Fund; or

1 (3) serving as a fiduciary in addition to being an
2 officer, employee, agent, or other representative of a
3 party in interest.

4 LIABILITY FOR BREACH OF FIDUCIARY DUTY

5 SEC. 182. (a) Any person who is a fiduciary with re-
6 spect to a Fund who breaches any of the responsibilities, obli-
7 gations, or duties imposed upon fiduciaries by this title shall
8 be personally liable to make good to such Fund any losses to
9 the Fund resulting from each such breach and to restore to
10 such Fund any profits of such fiduciary which have been
11 made through the use of assets of the Fund by the fiduciary
12 and shall be subject to such other equitable or remedial relief
13 as the court may deem appropriate, including removal of such
14 fiduciary.

15 (b) No fiduciary shall be liable with respect to a breach
16 of fiduciary duty under this title if such breach was commit-
17 ted before he became a fiduciary or after he ceased to be a
18 fiduciary.

19 EXCULPATORY PROVISIONS; INSURANCE

20 SEC. 183. (a) Any provision in an agreement or instru-
21 ment which purports to relieve a fiduciary from responsibility
22 or liability for any responsibility, obligation, or duty under
23 this part shall be void as against public policy.

24 (b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

7 (2) a fiduciary from purchasing insurance to cover
8 liability under this part from and for his own account;
9 or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

16 PROHIBITION AGAINST CERTAIN PERSONS HOLDING
17 CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or
has been imprisoned as a result of his conviction of, robbery,
bribery, extortion, embezzlement, fraud, grand larceny, bur-
glary, arson, a felony violation of Federal or State law in-
volving substances defined in section 102(6) of the Compre-
hensive Drug Abuse Prevention and Control Act of 1970,
murder, rape, kidnapping, perjury, assault with intent to kill,
any crime described in section 9(a)(1) of the Investment

1 Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of
2 any provision of this Act, a violation of section 302 of the
3 Labor-Management Relations Act, 1947 (29 U.S.C. 186), a
4 violation of chapter 63 of title 18, United States Code, a
5 violation of section 874, 1027, 1503, 1505, 1506, 1510,
6 1951, or 1954 of title 18, United States Code, a violation of
7 the Labor-Management Reporting and Disclosure Act of
8 1959 (29 U.S.C. 401), or conspiracy to commit any such
9 crime or attempt to commit any such crime, or a crime in
10 which any of the foregoing crimes is an element, shall serve
11 or be permitted to serve—

12 (1) as a fiduciary, investment counsel, agent, or
13 employee of any Fund established by this title; or

14 (2) as a consultant to any Fund established by
15 this title;

16 during or for five years after such conviction or after the end
17 of such imprisonment, whichever is the later, unless prior to
18 the end of such five-year period, in the case of a person so
19 convicted or imprisoned, his citizenship rights, having been
20 revoked as a result of such conviction, have been fully re-
21 stored, or the Board of Parole of the United States Depart-
22 ment of Justice determines that such person's service in any
23 capacity referred to in paragraph (1) or (2) would not be con-
24 trary to the purposes of this title. Prior to making any such
25 determination the Board of Parole shall hold an administra-

1 tive hearing and shall give notice of such proceeding by certi-
2 fied mail to the State, county, and Federal prosecuting offi-
3 cials in the jurisdiction or jurisdictions in which such person
4 was convicted. The Board of Parole's determination in any
5 such proceeding shall be final. No person shall knowingly
6 permit any other person to serve in any capacity referred to
7 in paragraph (1) or (2) in violation of this subsection. Not-
8 withstanding the preceding provisions of this subsection, no
9 corporation or partnership will be precluded from acting as
10 an administrator, fiduciary, officer, trustee, custodian, coun-
11 sel, agent, or employee, of any Fund established by this title,
12 or as a consultant to any Fund established by this title, with-
13 out a notice, hearing, and determination by such Board of
14 Parole that such service would be inconsistent with the inten-
15 tion of this section.

16 (b) Whoever willfully violates this section shall be fined
17 not more than \$10,000 or imprisoned for not more than one
18 year, or both.

19 (c) For the purposes of this section:

20 (1) A person shall be deemed to have been "con-
21 victed" and to be under the disability of "conviction"
22 from the date of entry of the judgment of the trial
23 court or the date of the final sustaining of such judg-
24 ment on appeal, whichever is the later event.

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least \$1,000,000.

1 Subparagraph (D) shall apply to a bank or other financial
2 institution which is authorized to exercise trust powers and
3 the deposits of which are not insured by the Federal Deposit
4 Insurance Corporation only if such bank or institution meets
5 bonding or similar requirements under State law which the
6 Council determines are at least equivalent to those imposed
7 on banks by Federal law.

8 (2)(A) The amount of such bond shall be the lesser of 10
9 percent of the amount of the funds handled by such fiduciary
10 and \$500,000, except that the amount of such bond shall be
11 at least \$1,000.

12 (B) The Mayor, after notice and opportunity for hearing
13 to such fiduciary and all other parties in interest to such
14 Fund, may waive the \$500,000 limit.

15 (C) The amount of such bond shall be set at the begin-
16 ning of each fiscal year.

17 (3) For purposes of fixing the amount of such bond, the
18 amount of funds handled shall be determined by the funds
19 handled by the person, group, or class to be covered by such
20 bond and by the predecessor or predecessors, if any, during
21 the preceding reporting year, or if the Fund has no preceding
22 reporting year under this title, the amount of funds to be
23 handled during the current reporting year by such person,
24 group, or class, estimated as provided in regulations to be
25 prescribed by the Council.

1 (4) Such bond shall provide protection to the Fund
2 against loss by reason of acts of fraud or dishonesty on the
3 part of the Fund official, directly or through connivance with
4 others.

5 (5) Any bond shall have as surety thereon a corporate
6 surety company which is an acceptable surety on Federal
7 bonds under authority granted by the Secretary of the Treas-
8 ury pursuant to sections 6 through 13 of title 6, United
9 States Code. Any bond shall be in a form or of a type ap-
10 proved by the Council, including individual bonds or schedule
11 or blanket forms of bonds which cover a group or class.

12 (b) It shall be unlawful for any Fund official to receive,
13 handle, disburse, or otherwise exercise custody or control of
14 any of the funds or other property of any Fund without being
15 bonded as required by subsection (a), and it shall be unlawful
16 for any Fund official or any other person having authority to
17 direct the performance of such functions to permit such func-
18 tions, or any of them, to be performed by any Fund official
19 with respect to whom the requirements of subsection (a) have
20 not been met.

21 (c) It shall be unlawful for any person to procure any
22 bond required by subsection (a) from any surety or other com-
23 pany or through any agent or broker in whose business oper-
24 ations the Fund or any party in interest in the Fund has any
25 control or significant financial interest, direct or indirect.

1 (d) Nothing in any other provision of law shall require
2 any person required to be bonded as provided in subsection
3 (a) because he handles funds or other property of a Fund to
4 be bonded insofar as the handling by such person of the funds
5 or other property of such Fund is concerned.

6 (e) The Council shall prescribe such regulations as may
7 be necessary to carry out the provisions of this section.

8 LIMITATION ON ACTIONS

9 SEC. 186. (a) No action may be commenced under this
10 title with respect to a fiduciary's breach of any responsibility,
11 duty, or obligation under this part, or with respect to a viola-
12 tion of this part, after the earlier of—

13 (1) six years after (A) the date of the last action
14 which constituted a part of the breach or violation, or
15 (B) in the case of an omission, the latest date on which
16 the fiduciary could have cured the breach or violation;
17 or

18 (2) three years after the earliest date (A) on
19 which the plaintiff had actual knowledge of the breach
20 or violation, or (B) on which a report from which he
21 could reasonably be expected to have obtained knowl-
22 edge of such breach or violation was filed with the
23 Mayor, the Council, the Speaker, or the President pro
24 tempore under this title;

1 except that in the case of fraud or concealment, such an
2 action may be commenced not later than six years after the
3 date of discovery of such breach or violation.

4 CIVIL ENFORCEMENT

5 SEC. 187. (a) A civil action may be brought—

6 (1) by a participant or beneficiary—

7 (A) for the relief provided for in subsection

8 (b) of this section, or

9 (B) to recover benefits due to him under the
10 terms of his retirement program, to enforce his
11 rights under the terms of the retirement program,
12 or to clarify his rights to future benefits under the
13 terms of the retirement program;

14 (2) by a participant or beneficiary or the District
15 of Columbia for appropriate relief under section 182; or

16 (3) by a participant or beneficiary or the District
17 of Columbia (A) to enjoin any act or practice which
18 violates any provision of this title or the terms of a re-
19 tirement program, or (B) to obtain other appropriate
20 equitable relief (i) to redress any such violation, or (ii)
21 to enforce any provision of this title or the terms of a
22 retirement program.

23 (b) If the Board fails or refuses to comply with a request
24 for any information which the Board is required by this title
25 to furnish to a participant or beneficiary (unless such failure

1 or refusal results from matters reasonably beyond the control
2 of the Board) by mailing the information requested to the last
3 known address of the requesting participant or beneficiary
4 within thirty days after such request, then the Board may, in
5 the court's discretion, be liable to such participant or benefi-
6 ciary in an amount of up to \$100 a day from the date of such
7 failure or refusal, and the court may order the Board to pro-
8 vide the required information and may in its discretion order
9 such other relief as it considers proper.

10 (c) The Board may sue and be sued under this title as an
11 entity. Service of summons, subpoena, or other legal process
12 of a court upon the chairman of the Board in his capacity as
13 such shall constitute service upon the Board.

14 (d) In any action under this title by a participant, benefi-
15 ciary, or fiduciary, the court in its discretion may allow a
16 reasonable attorney's fee and costs of action to either party.

17 CLAIMS PROCEDURE

18 SEC. 188. In accordance with regulations of the Coun-
19 cil, the Mayor shall provide to any participant or beneficiary
20 who has a claim for benefits under a retirement program
21 denied—

22 (1) adequate written notice of such denial, setting
23 forth the specific reasons for such denial in a manner
24 calculated to be understood by such participant or ben-
25 eficiary; and

1 (2) a reasonable opportunity for a full and fair
2 review of the decision denying such claim.

3 **TITLE II—CHANGES IN RETIREMENT BENEFITS**

4 **PART A—POLICE OFFICERS AND FIRE FIGHTERS'**

5 **RETIREMENT BENEFITS**

6 **SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY**

7 SEC. 201. Paragraph (17) of subsection (a) of the Po-
8 licemen and Firemen's Retirement and Disability Act (D.C.
9 Code, sec. 4-521(17)) is amended—

10 (1) by striking out "twelve consecutive months of
11 police or fire service," and inserting in lieu thereof
12 "thirty-six consecutive months of police or fire service
13 in the case of a member who is an officer or member of
14 the Metropolitan Police force or the Fire Department
15 of the District of Columbia and who first becomes such
16 a member after the end of the ninety-day period begin-
17 ning on the date of the enactment of the District of
18 Columbia Retirement Reform Act, or over any twelve
19 consecutive months of police or fire service in the case
20 of any other member,"; and

21 (2) by inserting "or thirty-six consecutive months,
22 as the case may be," immediately after "twelve con-
23 secutive months" the second place it appears.

1 CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF
2 EMPLOYEE ORGANIZATIONS

3 SEC. 202. (a) Subsection (c) of the Policemen and Fire-
4 men's Retirement and Disability Act (D.C. Code, sec.
5 4-523) is amended by redesignating paragraphs (6) and (7) of
6 such subsection as paragraphs (7) and (8), respectively, and
7 by inserting after paragraph (5) the following new paragraph:
8 "(6)(A) Any period of time during which a member who
9 is an officer or member of the Metropolitan Police force or
10 the Fire Department of the District of Columbia is on ap-
11 proved leave without pay to serve as a full-time officer or
12 employee of a labor organization shall be considered to be
13 police or fire service for purposes of this section if such
14 member files an election in accordance with subparagraph (B)
15 and makes payments as described in subparagraph (C). The
16 basic salary in effect at any time for the grade in which a
17 member was serving at the time he entered on approved
18 leave described in the preceding sentence shall be considered
19 to be the basic salary in effect for such member for purposes
20 of this section if the period of time when such member is on
21 approved leave is considered to be police or fire service under
22 this paragraph.

23 "(B) To be eligible to have any period of approved leave
24 described in subparagraph (A) considered to be police or fire
25 service for purposes of this section, a member described in

1 such subparagraph must, not later than the end of the sixty-
2 day period commencing on the day such member enters on
3 such approved leave or the effective date of this paragraph,
4 whichever occurs later, file an election with the Mayor to
5 have such period of approved leave considered to be police or
6 fire service for purposes of this section.

7 “(C)(i) To have any period of approved leave described
8 in subparagraph (A) occurring after the effective date of this
9 section considered to be police or fire service, a member de-
10 scribed in such subparagraph must each month deposit with
11 the Custodian of Retirement Funds (as defined in section
12 102(c) of the District of Columbia Retirement Reform Act)
13 for deposit in the District of Columbia Police Officers and
14 Fire Fighters’ Retirement Fund established by section 122(a)
15 of such Act a sum equal to one-twelfth the annual new-en-
16 trant normal cost of the annuity of a member receiving the
17 basic salary in effect during such month for the grade in
18 which such member was serving at the time such member
19 entered on such leave.

20 “(ii) To have any period of approved leave described in
21 subparagraph (A) which occurred before the effective date of
22 this section considered to be police or fire service, a member
23 described in such subparagraph must deposit with the Custo-
24 dian of Retirement Funds (as defined in section 102(c) of the
25 District of Columbia Retirement Reform Act) for deposit in

1 the District of Columbia Police Officers and Fire Fighters'
2 Retirement Fund established by section 122(a) of such Act,
3 in a manner to be determined by the Mayor, a sum equal to
4 the new-entrant normal cost of the annuity of a member re-
5 ceiving the basic salary in effect during the period of such
6 leave for the grade in which such member was serving at the
7 time such member entered on such leave.

8 “(iii) The Mayor shall make an annual determination of
9 the new-entrant normal cost for purposes of clauses (i) and
10 (ii) according to information supplied by the actuary retained
11 pursuant to section 142 of the District of Columbia Retire-
12 ment Reform Act.

13 “(D) For purposes of this paragraph, the term ‘em-
14 ployee organization’ means any organization of any kind, or
15 any agency or employer representation committee or plan, in
16 which members or officers of the Metropolitan Police force or
17 the Fire Department of the District of Columbia participate
18 and which exists for the purpose, in whole or in part, of deal-
19 ing with the government of the District of Columbia concern-
20 ing grievances, labor disputes, wages, rates of pay, hours of
21 employment, or conditions of work.”.

22 (b) The amendment made by subsection (a) shall take
23 effect at the end of the ninety-day period beginning on the
24 date of the enactment of this Act.

1 REQUIREMENTS FOR OPTIONAL RETIREMENT

2 SEC. 203. (a) Subsection (h)(1) of the Policemen and
3 Firemen's Retirement and Disability Act (D.C. Code, sec.
4 4-528(1)) is amended—

5 (1) by striking out "who completes twenty years
6 of police or fire service" and inserting in lieu thereof
7 "who is an officer or member of the Metropolitan
8 Police force or the Fire Department of the District of
9 Columbia and first becomes such a member after the
10 end of the ninety-day period beginning on the date of
11 the enactment of the District of Columbia Retirement
12 Reform Act and who completes twenty-five years of
13 police or fire service and attains the age of fifty years
14 and any other member (other than a member who is an
15 officer or member of the Metropolitan Police force or
16 the Fire Department of the District of Columbia who
17 first becomes such a member after the end of such
18 ninety-day period) who completes twenty years of
19 police or fire service."; and

20 (2) by striking out "twenty years: *Provided*" and
21 inserting in lieu thereof "(A) twenty-five years, in the
22 case of a member who becomes a member after the
23 end of such ninety-day period, or (B) twenty years, in
24 the case of any other member: *Provided*".

1 (b)(1) Paragraph (2) of subsection (h) of the Policemen
2 and Firemen's Retirement and Disability Act (D.C. Code,
3 sec. 4-528) is amended by striking out "in subsection (h)"
4 and inserting in lieu thereof "under".

5 (2) Paragraph (3) of such subsection is amended by
6 striking out "of this subsection (h)".

7 DISABILITY RETIREMENT

8 SEC. 204. (a) Subsection (g) of the Policemen and Fire-
9 men's Retirement and Disability Act (D.C. Code, sec.
10 4-527) is amended—

11 (1) in paragraph (2), by striking out "In any case
12 in which the proximate cause of an injury incurred or
13 disease contracted by a member" and inserting in lieu
14 thereof "In any case involving a member who is an of-
15 ficer or member of the United States Park Police force,
16 the Executive Protective Service, or the United States
17 Secret Service Division, in which the proximate cause
18 of an injury incurred or disease contracted by the
19 member"; and

20 (2) by adding at the end thereof the following new
21 paragraph:

22 "(4) A member who is an officer or member of the Met-
23 ropolitan Police force or the Fire Department of the District
24 of Columbia may not retire and receive an annuity under this
25 subsection on the basis of the aggravation in the performance

1 of duty of an injury incurred or a disease contracted in the
2 performance of duty unless—

3 “(A) in the case of the aggravation of a disease,
4 the disease was reported to the Board of Police and
5 Fire Surgeons within thirty days after the disease was
6 first diagnosed; or

7 “(B) in the case of the aggravation of an injury,
8 the injury was reported to the Board of Police and
9 Fire Surgeons within seven days after the injury was
10 incurred or, if the member was unable (as determined
11 by such Board) as a result of the injury to report the
12 injury within such seven-day period, within seven days
13 after the member became able (as determined by such
14 Board) to report the injury.

15 The burden of establishing inability to report an injury in
16 accordance with subparagraph (B) within seven days after
17 such injury was incurred and of establishing that such injury
18 was reported within seven days after the end of such inability
19 shall be on the member claiming such inability. Any report
20 under this paragraph shall include adequate medical docu-
21 mentation. Nothing in this paragraph shall be deemed to alter
22 or affect any administrative regulation or requirement of the
23 Metropolitan Police force or the Fire Department of the Dis-
24 trict of Columbia with respect to the reporting of an injury

1 incurred or aggravated, or any disease contracted or aggra-
2 vated, in the performance of duty.”.

3 (b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526)
4 is amended—

5 (A) by striking out “Whenever” and inserting in
6 lieu thereof “(1) Except as provided in paragraph (2),
7 whenever”; and

8 (B) by adding at the end thereof the following
9 new paragraph.

10 “(2) Whenever any member who is an officer or member
11 of the Metropolitan Police force or the Fire Department of
12 the District of Columbia and who first becomes such a
13 member after the end of the ninety-day period beginning on
14 the date of the enactment of the District of Columbia Retire-
15 ment Reform Act completes five years of police or fire serv-
16 ice and is found by the Mayor to have become disabled due to
17 injury received or disease contracted other than in the per-
18 formance of duty, which disability precludes further service
19 with his department, such member shall be retired on an an-
20 nuity which shall be 70 per centum of his basic salary at the
21 time of retirement multiplied by the percentage of disability
22 for such member as determined in accordance with subsection
23 (g)(5)(B)(ii) of this section, except that such annuity shall not
24 be less than 30 per centum of his basic salary at the time of
25 retirement.”.

1 (2) Subsection (g) of such Act, as amended by subsection
2 (a) of this section, is further amended—

3 (A) in paragraph (1), by striking out “Whenever”
4 and inserting in lieu thereof “Except as provided in
5 paragraph (5), whenever”; and

6 (B) by adding at the end thereof the following
7 new paragraph:

8 “(5)(A) Whenever any member who is an officer or
9 member of the Metropolitan Police force or the Fire Depart-
10 ment of the District of Columbia and who first becomes such
11 a member after the end of the ninety-day period beginning on
12 the date of the enactment of the District of Columbia Retire-
13 ment Reform Act is injured or contracts a disease in the per-
14 formance of duty or such injury or disease is aggravated by
15 such duty at any time after appointment and such injury or
16 disease or aggravation permanently disables him for the per-
17 formance of duty, he shall upon retirement for such disability,
18 receive an annuity computed in accordance with subpara-
19 graph (B).

20 “(B)(i) In the case of any member who retires under this
21 paragraph or paragraph (2) of subsection (f), the Board of
22 Police and Fire Surgeons shall determine, within a reason-
23 able time and in accordance with regulations which the
24 Mayor shall promulgate, the percentage of impairment for

1 such member and shall report such percentage of impairment
2 to the Police and Firemen's Retirement and Relief Board.

3 “(ii) In the case of any member described in clause (i),
4 the Police and Firemen's Retirement and Relief Board shall
5 determine within a reasonable time the percentage of disabil-
6 ity for such member giving due regard to—

7 “(I) the nature of the injury or disease,

8 “(II) the percentage of impairment reported pur-
9 suant to clause (i),

10 “(III) the position in the Metropolitan Police force
11 or the Fire Department of the District of Columbia
12 held by the member immediately prior to his retire-
13 ment.

14 “(IV) the age and years of service of the member,
15 and

16 “(V) any other factors or circumstances which
17 may affect the capacity of the member to earn wages
18 or engage in gainful activity in his disabled condition,
19 including the effect of the disability as it may naturally
20 extend into the future.

21 “(iii) The percentage of impairment or the percentage of
22 disability for a member to whom this paragraph applies may
23 be redetermined at any time prior to the time such member
24 reaches the age of fifty and his annuity shall be adjusted
25 accordingly.

1 “(iv) The annuity of a member who is retired under this
2 paragraph shall be 70 per centum of his basic salary at the
3 time of retirement multiplied by the percentage of disability
4 for such member as determined in accordance with clause (ii),
5 except that such annuity shall not be less than 40 per centum
6 of his basic salary at the time of retirement.

7 “(v) For purposes of this paragraph—

8 “(I) the term ‘impairment’ means any anatomic or
9 functional abnormality or loss existing after maximal
10 medical rehabilitation has been achieved; and

11 “(II) the term ‘disability’ means any actual or
12 presumed reduction in or absence of ability to engage
13 in gainful activity which is caused, in whole or in part,
14 by an impairment.”

15 (c) The amendment made by paragraph (1) of subsection
16 (a) shall not apply with respect to officers and members of the
17 Metropolitan Police force or the Fire Department of the Dis-
18 trict of Columbia who apply for disability retirement under
19 subsection (g) of the Policemen and Firemen’s Retirement
20 and Disability Act prior to the end of the ninety-day period
21 beginning on the date of the enactment of this Act. The
22 amendment made by paragraph (2) of subsection (a) shall not
23 apply with respect to injuries incurred or diseases first diag-
24 nosed prior to the end of such ninety-day period.

1 RECOVERY FROM DISABILITY

2 SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and
3 Firemen's Retirement and Disability Act (D.C. Code, sec.
4 4-530(1)) is amended in the first sentence by striking out
5 "shall cease" and all that follows in such sentence and in-
6 serting in lieu thereof "shall cease—

7 "(A) upon reemployment in the department from
8 which he was retired,

9 "(B) on the date of the medical examination
10 showing such recovery,

11 "(C) forty-five days from the date of the determi-
12 nation that he is so restored, or

13 "(D) in the case of an annuitant who was an offi-
14 cer or member of the Metropolitan Police force or the
15 Fire Department of the District of Columbia and who
16 first became such a member after the end of the
17 ninety-day period beginning on the date of the enact-
18 ment of the District of Columbia Retirement Reform
19 Act, upon a refusal by such annuitant to accept an
20 offer of reemployment in the department from which he
21 was retired at the same grade or rank as he held at
22 the time of his retirement,
23 whichever is earliest."

24 (2)(A) Such subsection (j)(1) is amended in the second
25 sentence by striking out "in each of two succeeding calendar

1 years" and inserting in lieu thereof " , in each of two succeed-
2 ing calendar years in the case of an annuitant who was an
3 officer or member of the United States Park Police force,
4 Executive Protection Service, or the United States Secret
5 Service Division, or in any calendar year in the case of an
6 annuitant who was an officer or member of the Metropolitan
7 Police force or the Fire Department of the District of Colum-
8 bia,".

9 “(B) Subsection (j) of such Act is further amended by
10 adding at the end thereof the following new paragraph:

11 “(3)(A) If any annuitant who is retired under subsection
12 (f) or (g), who prior to such retirement was an officer or
13 member of the Metropolitan Police force or the Fire Depart-
14 ment of the District of Columbia, and who first became such
15 a member after the end of the ninety-day period beginning on
16 the date of the enactment of the District of Columbia Retire-
17 ment Reform Act, receives, directly or indirectly, income
18 from wages or self-employment, or both, in any calendar year
19 after the calendar year in which he retired—

20 “(i) in an amount in excess of the difference be-
21 tween 70 per centum of the current earnings limitation
22 and the amount of annuity payable to such annuitant
23 during such year under each such subsection prior to
24 the reductions provided for in this paragraph, then
25 (except as provided in subparagraph (D)) the annuity of

1 such annuitant shall be reduced by 50 cents for each
2 \$1 of such income received during such year in excess
3 of such difference; and

4 “(ii) in an amount in excess of the difference be-
5 tween the current earnings limitation and the amount
6 of annuity payable to such annuitant during such year
7 under each such subsection prior to the reductions pro-
8 vided for in this paragraph, then (except as provided in
9 subparagraph (D)) the annuity of such annuitant shall
10 be further reduced by 20 cents for each \$1 of such
11 income received during such year in excess of such
12 difference.

13 “(B) For the purposes of subparagraph (A), the term
14 ‘current earnings limitation’, with respect to an annuitant,
15 means the greater of—

16 “(i) the current annual salary for the position
17 which such annuitant held immediately prior to the re-
18 tirement of such annuitant; or

19 “(ii) the current entry level salary for active offi-
20 cers and members, divided by .7.

21 “(C) The reductions provided for in subparagraph (A)
22 shall be made as follows:

23 “(i) Such reductions shall be pro rated over a
24 period of twelve consecutive months, with equal

1 amounts withheld from each payment of annuity during
2 such twelve-month period.

3 “(ii) The twelve-month period during which such
4 reduction is made shall begin as soon after the end of
5 the calendar year involved as is administratively prac-
6 ticable (as determined in accordance with regulations
7 which the Mayor of the District of Columbia shall
8 promulgate).

9 “(D) If the Mayor of the District of Columbia deter-
10 mines that the level of income of an annuitant whose annuity
11 would otherwise be reduced in accordance with subparagraph
12 (A) has decreased significantly (other than in accordance with
13 normal income fluctuations for such annuitant) during the
14 period in which such reduction would occur, the Mayor may
15 authorize the withholding during such period, or any portion
16 thereof, of such lesser amount than the amount prescribed in
17 such subparagraph as the Mayor considers appropriate or the
18 Mayor may waive the requirements of subparagraph (A) if he
19 finds that circumstances justify such waiver.

20 “(E)(i) Any annuitant who is retired under subsection (f)
21 or (g) and who prior to such retirement was an officer or
22 member of the Metropolitan Police force or the Fire Depart-
23 ment of the District of Columbia shall, at such times as the
24 Mayor of the District of Columbia shall by regulation pre-
25 scribe, submit to the Mayor a notarized statement containing

1 such information as the Mayor shall by regulation require
2 with respect to the income received by such annuitant from
3 wages or self-employment, or both. After examining such
4 statement, the Mayor may require such annuitant to submit
5 to the Mayor a further notarized statement containing such
6 additional information with respect to the income received by
7 such annuitant from wages or self-employment, or both, as
8 the Mayor deems appropriate.

9 “(ii) Any annuitant described in clause (i) who willfully
10 furnishes materially false information with respect to his
11 income in any statement required to be submitted under such
12 clause shall forfeit all rights to his disability annuity. Any
13 such annuitant who refuses or otherwise willfully fails to
14 timely submit such statement as required by this subsection,
15 payment of the annuity to such annuitant shall cease and
16 such annuitant shall not be eligible to receive such annuity or
17 part thereof for the period beginning on the date after the
18 final day for timely filing of such statement and ending on the
19 date on which the Mayor receives such statement. Nothing in
20 this clause shall affect any rights to a survivor’s annuity
21 under subsection (k) based upon the service of such annu-
22 itant.”.

23 (b) Subsection (m)(2) of such Act (D.C. Code, sec.
24 4-533(2)) is amended—

25 (1) by inserting “(A)” before “If a member”;

1 (2) by striking out the last sentence of such sub-
2 section and adding after "is based." the following:
3 "The Commissioner shall not require employment
4 questionnaires under subsection (j)(3)(C) or the medical
5 examination of such member under subparagraph (B)
6 after such member reaches the age of fifty."; and

7 (3) by adding at the end of such subsection the
8 following:

9 "(B) The Mayor shall, by regulation, require any annu-
10 itant who was an officer or member of the Metropolitan
11 Police force or the Fire Department of the District of Colum-
12 bia and who retired before, on, or after the date of the enact-
13 ment of the District of Columbia Retirement Reform Act
14 under subsection (f) or (g) of this section to undergo, during
15 each twelve-month period following the effective date of this
16 subparagraph, at least one medical examination of the dis-
17 ability upon which the annuitant's retirement under subsec-
18 tion (f) or (g) is based. No such annuitant shall be required
19 under such regulations to undergo a medical examination
20 during any such twelve-month period during which the annu-
21 itant was required to undergo a medical examination under
22 this subsection in connection with such annuitant's employ-
23 ment. Such annual examination shall be carried out by the
24 Board of Police and Fire Surgeons or by a physician desig-
25 nated by the Board.

1 “(C) Such regulations shall further provide for notifica-
2 tion by the Board of Police and Fire Surgeons to each such
3 annuitant as to the time and place for such examination and
4 the consequences of failure to appear and submit to such
5 examination.

6 “(D) In any case in which the requirement to undergo a
7 medical examination under this section would impose on an
8 annuitant an undue hardship because of the physical or
9 mental condition of such annuitant, the Mayor, by regulation,
10 shall provide other means sufficient to determine the continu-
11 ance of the disability on which such annuitant’s retirement
12 under subsection (f) or (g) is based.

13 “(E) Such regulations shall further provide that, in any
14 case involving any such member so retired who refuses or
15 otherwise fails to undergo any medical exam required by this
16 section, payment of the annuity to such member shall cease
17 and such member shall not be eligible to receive such annuity
18 or any part thereof for any period commencing on the day
19 next following the day on which such member was required
20 to undergo such examination, and ending on the date on
21 which such member undergoes such examination. Nothing in
22 this paragraph shall be construed as affecting any rights to a
23 survivor’s annuity under subsection (k) based upon the serv-
24 ice of such member.”.

1 (c) The amendments made by subsections (a) and (b)
2 shall take effect at the end of the ninety-day period beginning
3 on the date of enactment of this Act. The amendment made
4 by paragraph (2)(B) of subsection (a) shall apply with respect
5 to income from wages or self-employment, or both, received
6 directly or indirectly during calendar year 1979 or the calen-
7 dar year after the year in which the member retires, which-
8 ever is later, and any calendar year thereafter.

9 SURVIVORS' ANNUITIES

10 SEC. 206. (a)(1) Subsection (k) of the Policemen and
11 Firemen's Retirement and Disability Act (D.C. Code, sec.
12 4-531) is amended—

13 (A) in paragraph (2)—

14 (i) by inserting "(A)" immediately after "40
15 per centum" the second place it appears, and

16 (ii) by striking out "computed," and inserting
17 in lieu thereof "computed in the case of a member
18 who was an officer or member of the United
19 States Park Police force, the Executive Protec-
20 tive Service, or the United States Secret Service
21 Division, or (B) of the adjusted average pay of
22 such former member in the case of a member who
23 was an officer or member of the Metropolitan
24 Police force or the Fire Department of the Dis-
25 trict of Columbia;"; and

1 (B) by amending paragraph (3) to read as follows:

2 “(3) Each surviving child or student-child of any
3 member who dies before retirement, or of any former member
4 who dies after retirement, shall be entitled to receive an an-
5 nuity equal to the smallest of—

6 “(A) in the case of a member or former member
7 who is survived by a wife or husband—

8 “(i) 60 per centum of—

9 “(I) the member’s average pay at the
10 time of death, or

11 “(II) the basis upon which the former
12 member’s annuity at the time of death was
13 computed in the case of a member who was
14 an officer or member of the United States
15 Park Police force, the Executive Protective
16 Service, or the United States Secret Service
17 Division, or the adjusted average pay of the
18 former member in the case of a member who
19 was an officer or member of the Metropolitan
20 Police force or the Fire Department of the
21 District of Columbia,

22 divided by the number of eligible children;

23 “(ii) \$1,548; or

24 “(iii) \$4,644 divided by the number of eligi-
25 ble children; and

1 “(B) in the case of a member or former member
2 who is not survived by a wife or husband—

3 “(i) 75 per centum of—

4 “(I) the member’s average pay at the
5 time of death, or

6 “(II) the basis upon which the former
7 member’s annuity at the time of death was
8 computed in the case of a member who was
9 an officer or member of the United States
10 Park Police force, the Executive Protective
11 Service, or the United States Secret Service
12 Division, or the adjusted average pay of the
13 former member in the case of a member who
14 was an officer or member of the Metropolitan
15 Police force or the Fire Department of the
16 District of Columbia,

17 divided by the number of eligible children;

18 “(ii) \$1,860; or

19 “(iii) \$5,580 divided by the number of eligi-
20 ble children.”.

21 (2) Subsection (a) of such Act (D.C. Code, sec. 4-521)
22 is amended—

23 (A) by striking out the period at the end of para-
24 graph (4) of such subsection and inserting in lieu there-
25 of the following: “, in the case of a member who was

1 an officer or member of the United States Park Police
2 force, the Executive Protective Service, or the United
3 States Secret Service Division, or the surviving hus-
4 band of a member or former member who was a
5 member or officer of the Metropolitan Police force or
6 the Fire Department of the District of Columbia if—

7 “(A) he was married to such member or
8 former member (i) while she was a member, or (ii)
9 for at least one year immediately preceding her
10 death, or

11 “(B) he is the father of issue by such mar-
12 riage.”; and

13 (B) by inserting the following new paragraph im-
14 mediately after paragraph (17):

15 “(18) The term ‘adjusted average pay’ means the aver-
16 age pay of a member who was an officer or member of the
17 Metropolitan Police force or the Fire Department of the Dis-
18 trict of Columbia increased by the per centum increase (ad-
19 justed to the nearest one-tenth of 1 per centum in the Con-
20 sumer Price Index for All Urban Consumers, published by
21 the Bureau of Labor Statistics, between the month in which
22 such member retires and the month immediately prior to the
23 month in which such member dies.”.

24 (b) The amendments made by subsection (a) shall apply
25 with respect to survivor annuities under the Policemen and

1 Firemen's Retirement and Disability Act for survivors of offi-
2 cers or members of the Metropolitan Police force or the Fire
3 Department of the District of Columbia which commence on
4 or after the first day of the first month which begins after the
5 end of the ninety-day period beginning on the date of enact-
6 ment of this Act.

7 DEFERRED ANNUITIES

8 SEC. 207. (a)(1) The Policemen and Firemen's Retire-
9 ment and Disability Act is amended—

10 (A) by redesignating subsections (l) through (r) as
11 subsections (m) through (s), respectively; and

12 (B) by inserting immediately after subsection (k)
13 the following new subsection:

14 "DEFERRED ANNUITIES

15 "(l)(1) Except as provided in paragraph (2), any member
16 who is an officer or member of the Metropolitan Police force
17 or the Fire Department of the District of Columbia who com-
18 pletes five years of police or fire service and who is thereafter
19 separated from his department, except for retirement under
20 subsection (f), (g), or (h), shall be entitled to an annuity com-
21 mencing on the first day of the month during which such
22 member attains the age of fifty-five or on the first day of the
23 first month beginning after such member's separation from
24 his department, whichever month occurs later. Such annuity
25 shall be computed at the rate of 2½ per centum of his aver-

1 age pay for each year of service up to twenty years of service
2 and at the rate of 3 per centum of his average pay for each
3 year of service after twenty years of service, or, in the case
4 of a member who first became such a member after the end of
5 the ninety-day period beginning on the date of the enactment
6 of the District of Columbia Retirement Reform Act, after
7 twenty-five years of service, except that such annuity may
8 not exceed 80 per centum of the average pay of such
9 member.

10 “(2)(A) Any member who is an officer or member of the
11 Metropolitan Police force or the Fire Department of the Dis-
12 trict of Columbia who completes five years of police or fire
13 service and who is thereafter separated from his department
14 (other than a member who retires under subsection (f), (g), or
15 (h)) may elect, at the time of his separation, to receive a
16 refund of the amount of deductions made from his salary
17 under this section. Receipt of such refund by the member
18 shall void all annuity rights under this section.

19 “(B)(i) Any member who, by electing to receive a refund
20 under subparagraph (A), loses annuity rights under this sec-
21 tion, may reestablish all such rights at any time prior to at-
22 taining the age of fifty-five by redepositing the amount of
23 such refund plus interest computed in accordance with para-
24 graph (3).

1 “(ii) If any member who receives a refund under subpar-
2 agraph (A) is subsequently reappointed to any department
3 whose members come under this section and elects, at the
4 time of such reappointment, to redeposit the amount refunded
5 to him under subparagraph (A) plus interest computed in ac-
6 cordance with paragraph (3), then credit shall be allowed
7 under this section for such member’s prior period of service.
8 Such redeposit (and the required interest thereon) may, at the
9 election of the member, be made in a lump sum or in not to
10 exceed 60 monthly installments, except that if the member
11 dies before depositing the full amount due under the preced-
12 ing sentence, the requirements of such sentence shall be
13 deemed to have been met.

14 “(3) The interest which is required by paragraphs (2)(B)
15 (i) and (ii) of this subsection and by paragraph (2)(B) of sub-
16 section (d) to be paid by a member who redeposits the
17 amount of previously refunded deductions shall be computed
18 as follows:

19 “(A) Interest shall be paid at a rate which (as de-
20 termined by the Mayor of the District of Columbia) is
21 equal to the average rate of return on investment (ad-
22 justed to the nearest one-eighth of 1 per centum) for
23 the District of Columbia Police Officers and Fire
24 Fighters’ Retirement Fund (established by section 122
25 of the District of Columbia Retirement Reform Act) for

1 the period beginning on the first day of the first month
2 which begins after the end of the service with respect
3 to which the redeposit is made and ending on the last
4 day of the month which precedes the month during
5 which he redeposits the refund if he makes a lump sum
6 payment or during which he makes the first monthly
7 payment if he makes monthly payments, except that
8 for so much of any such period which precedes October
9 1, 1981, the average rate of interest on interest-bear-
10 ing obligations of the United States forming a part of
11 the public debt (adjusted to the nearest one-eighth of 1
12 per centum) shall be used in determining the interest
13 rate to be paid on redeposits under this section.

14 “(B) Interest shall be payable for the period be-
15 ginning on the first day of the first month which begins
16 after the end of the period of service with respect to
17 which the redeposit is made and ending on the last day
18 of the month which precedes the month during which
19 he redeposits the refund.

20 “(C) If a member elects to make his redeposit in
21 monthly installments, each monthly payment shall in-
22 clude interest on that portion of the refund which is
23 then being redeposited.”.

24 (2) Subsection (k) of such Act (D.C. Code, 4-531), as
25 amended by section 206 of this Act, is further amended—

1 (A) in paragraph (2)—

2 (i) by striking out “or” the first place it ap-
3 pears, and

4 (ii) by inserting “or of any member entitled
5 to receive an annuity under subsection (l) (regard-
6 less of whether such member is receiving such an-
7 nuity at the time of death),” immediately after
8 “after retirement,”;

9 (B) in paragraph (3)—

10 (i) by striking out “or” the second place it
11 appears, and

12 (ii) by inserting “or of any member entitled
13 to receive an annuity under subsection (l) (regard-
14 less of whether such member is receiving such an-
15 nuity at the time of death),” immediately after
16 “after retirement,”; and

17 (C) in paragraph (6)—

18 (i) by striking out “, may,” in the first sen-
19 tence and inserting in lieu thereof “may”,

20 (ii) by inserting “, and any member entitled
21 to receive an annuity under subsection (l) of this
22 section may at the time such annuity com-
23 mences,” immediately after “such retirement,” in
24 the first sentence,

1 (iii) by striking out "the retired annuitant" in
2 the first sentence and inserting in lieu thereof
3 "such member's",

4 (iv) by striking out "the retiring" in the pro-
5 viso in the first sentence and inserting in lieu
6 thereof "such",

7 (v) by striking out "retiring" in the second
8 and fourth sentences,

9 (vi) by striking out "retirement" in the last
10 sentence and inserting in lieu thereof "election",
11 and

12 (vii) by striking out "or (h)" in the last sen-
13 tence and inserting in lieu thereof "(h), or (l), as
14 the case may be".

15 (b) The amendments made by subsection (a) shall take
16 effect at the end of the ninety-day period beginning on the
17 date of the enactment of this Act.

18 INTEREST OF REFUNDS AND ON DEPOSITS FOR PRIOR

19 SERVICE CREDIT

20 SEC. 208. (a)(1) Subsection (d) of the Policemen and
21 Firemen's Retirement and Disability Act (D.C. Code, sec.
22 4-524) is amended—

23 (A) in paragraph (2)—

24 (i) by striking out "Any member coming
25 under the provisions of this section" and inserting

1 in lieu thereof "(A) any member who is an officer
2 or member of the United States Park Police force,
3 the Executive Protective Service, or the United
4 States Secret Service Division,"; and

5 (ii) by adding at the end of such paragraph
6 the following new subparagraph,

7 "(B) Any member who is an officer or member of the
8 Metropolitan Police force or the Fire Department of the Dis-
9 trict of Columbia with less than five years of police or fire
10 service who is separated from his department, except for re-
11 tirement under subsection (f), (g), or (h), shall be refunded the
12 amount of the deductions made from his salary under this
13 section. The receipt of payment of such deductions by such
14 member shall void all annuity rights under this section,
15 except that if such member is subsequently reappointed to
16 any department whose members come under this section and
17 such member elects, at the time of such reappointment, to
18 redeposit the amount refunded to him pursuant to the preced-
19 ing sentence plus interest computed in accordance with sub-
20 section (l)(3), then credit shall be allowed under this section
21 for the prior period of service. Such redeposit (and the inter-
22 est required thereon) may be made, at the election of the
23 member, in a lump sum or in not to exceed 60 monthly in-
24 stallments, except that if such member dies before depositing
25 the full amount due under the preceding sentence, the re-

1 quirements of such sentence shall be deemed to have been
2 met.”;

3 (B) in the proviso at the end of paragraph (3), by
4 inserting immediately before the period “, except that
5 if the member was an officer or member of the Metro-
6 politan Police force or the Fire Department of the Dis-
7 trict of Columbia, no payment shall be made if no nat-
8 ural person is determined to be entitled thereto”; and

9 (C) in paragraph (4)—

10 (i) by striking out “after retirement”, and

11 (ii) in the proviso at the end of such para-
12 graph by inserting “, except that if the member
13 was an officer or member of the Metropolitan
14 Police force or the Fire Department of the Dis-
15 trict of Columbia, no payment shall be made if no
16 natural person is determined to be entitled there-
17 to” immediately before the period.

18 (2) Paragraph (5) of subsection (c) of such Act (D.C.
19 Code, sec. 4-523(5) is amended to read as follows:

20 “(5)(A) A member shall be allowed credit for govern-
21 ment service performed prior to appointment in any of the
22 departments mentioned in subsection (a)(1) of this section, if
23 such member deposits a sum equal to the entire amount, in-
24 cluding interest (if any), refunded to him for such period of
25 government service. A member who is an officer or member

1 of the Metropolitan Police force or the Fire Department of
2 the District of Columbia shall deposit such sum, plus interest
3 computed in accordance with subparagraph (B), with the
4 Custodian of Retirement Funds (as defined in section 102(6)
5 of the District of Columbia Retirement Reform Act) for de-
6 posit in the District of Columbia Police Officers and Fire
7 Fighters' Retirement Fund established by section 122(a) of
8 such Act. All other members shall deposit such sums with
9 the Mayor of the District of Columbia for credit to the rev-
10 enues of the District of Columbia. If the member so elects, he
11 may deposit the total amount of such refund in monthly in-
12 stallments not exceeding twenty-four, except that in the case
13 of a member who is an officer or member of the United
14 States Park Police force, the Executive Protective Service,
15 or the United States Secret Service Division, such monthly
16 installments shall be of equal amounts. No deposit shall be
17 required for days of unused sick leave credited under subsec-
18 tion (h) of this section.

19 “(B) Interest required on deposits under this paragraph
20 for members who are officers or members of the Metropolitan
21 Police force or the Fire Department of the District of Colum-
22 bia shall be computed as follows:

23 “(i) Interest shall be paid at a rate which (as de-
24 termined by the Mayor of the District of Columbia) is
25 equal to the average rate of return on investment (ad-

1 justed to the nearest one-eighth of 1 per centum) for
2 the District of Columbia Police Officers and Fire
3 Fighters' Retirement Fund (established by section 122
4 of the District of Columbia Retirement Reform Act) for
5 the period beginning on the first day of the first month
6 which begins after the end of the service with respect
7 to which the deposit is made and ending on the last
8 day of the month which precedes the month during
9 which the deposit is made if he makes a lump-sum
10 payment or during which he makes the first monthly
11 payment if he makes monthly payments, except that
12 for so much of any such period which precedes October
13 1, 1981, the average rate of interest on interest-bear-
14 ing obligations of the United States forming a part of
15 the public debt (adjusted to the nearest one-eighth of 1
16 per centum) shall be used in determining the interest
17 rate to be paid on deposits under this paragraph.

18 “(ii) Interest shall be payable for the period begin-
19 ning on the first day of the first month which begins
20 after the end of the period of service with respect to
21 which the deposit is made and ending on the last day
22 of the month which precedes the month during which
23 the deposit is made.

24 “(iii) If a member elects to make his deposit in
25 monthly installments, each monthly payment shall in-

1 clude interest on that portion of the refund which is
2 then being redeposited.”.

3 The amendments made by subsection (a) shall take
4 effect at the end of the ninety-day period beginning on the
5 date of the enactment of this Act. The amendments made by
6 paragraph (2) of subsection (a) shall not apply with respect to
7 deposits made, in whole or in part, prior to the end of such
8 ninety-day period.

9 COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

10 SEC. 209. (a)(1) The Policemen and Fireman’s Retire-
11 ment and Disability Act is amended—

12 (A) by redesignating subsections (m) through (s),
13 as redesignated by section 207(a)(1)(A) of this Act, as
14 subsections (n) through (t), respectively; and

15 (B) by inserting immediately after subsection (l),
16 as added by the amendment made by section
17 207(a)(1)(B) of this Act, the following new subsection:

18 “COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

19 “(m)(1) Each month the Mayor of the District of Colum-
20 bia shall determine the per centum change in the price index.
21 On the basis of this determination, and effective the first day
22 of the third month which begins after the price index shall
23 have equaled the rise of at least 3 per centum for three con-
24 secutive months over the price index for the base month each
25 annuity payable under this section which—

1 “(A) is payable to a survivor of a member who
2 was an officer or member of the United States Park
3 Police force, the Executive Protective Service, or the
4 United States Secret Service Division, and

5 “(B) has a commencing date on or before such ef-
6 fective date,

7 shall be increased by 1 per centum plus the per centum rise
8 in the price index. For purposes of this paragraph, the term
9 ‘base month’ means the month for which the price index
10 showed a per centum rise forming the basis for a cost-of-
11 living annuity increase under this paragraph, except that,
12 until the first cost-of-living annuity increase under this para-
13 graph, the base month shall be the last month which was the
14 base month for purposes of subsection (k)(7) before its repeal
15 by section 209(b) of the District of Columbia Retirement
16 Reform Act.

17 “(2) With respect to any annuity payable under this sec-
18 tion which is payable to a member who was an officer or
19 member of the Metropolitan Police force or the Fire Depart-
20 ment of the District of Columbia, or to a survivor of any such
21 member, the Mayor shall—

22 “(A) on January 1 of each year, or within a rea-
23 sonable time thereafter, determine the per centum
24 change in the price index published for December of

1 the preceding year over the price index published for
2 June of the preceding year, and

3 “(B) on July 1 of each year, or within a reason-
4 able time thereafter, determine the per centum change
5 in the price index published for June of such year over
6 the price index published for December of the preced-
7 ing year.

8 “(3) If in any year the per centum change determined
9 under either paragraph (2)(A) of (2)(B) indicated a rise in the
10 price index, then—

11 “(A) in the case of an increase under paragraph
12 (2)(A), (i) each annuity described in paragraph (2)
13 having a commencing date not later than March 1 of
14 such year shall, effective such March 1, be increased
15 by the per centum change computed under such para-
16 graph, adjusted to the nearest one-tenth of 1 per
17 centum, and (ii) each annuity described in such para-
18 graph having a commencing date after such March 1
19 but before the effective date of the next increase in an-
20 nuities under this paragraph shall, effective such com-
21 mencing date, be increased by such per centum
22 change, adjusted to the nearest one-tenth of 1 per
23 centum, or

24 “(B) in the case of an increase under paragraph
25 (2)(B), (i) each annuity described in paragraph (2)

1 having a commencing date not later than September 1
2 of such year shall, effective such September 1, be in-
3 creased by the per centum change computed under
4 such paragraph, adjusted to the nearest one-tenth of 1
5 per centum, and (ii) each annuity described in such
6 paragraph having a commencing date after such Sep-
7 tember 1 but before the effective date of the next in-
8 crease in annuities under this paragraph shall, effective
9 such commencing date, be increased by such per
10 centum change, adjusted to the nearest one-tenth of 1
11 per centum.

12 “(4) The monthly installment of annuity after adjust-
13 ment under this subsection shall be fixed at the nearest
14 dollar, except that such installment shall after adjustment re-
15 flect an increase of at least \$1.

16 “(5) For purposes of this subsection, the term ‘price
17 index’ means the Consumer Price Index for All Urban Con-
18 sumers published monthly by the Bureau of Labor
19 Statistics.”.

20 (2) Subsections (m) (2) and (3) of the Policemen and
21 Firemen’s Retirement and Disability Act, as added by the
22 amendment made by paragraph (1)(B) of this subsection, shall
23 apply (A) to any increase after the effective date of such
24 amendment in annuities payable under subsection (k) of such
25 Act, except that with respect to the first date after the effec-

1 tive date of such amendment on which the Mayor is to deter-
2 mine a per centum change for the purpose of such an in-
3 crease, such per centum change shall be determined by com-
4 puting the change in the price index published for the month
5 immediately preceding such first date over the price index
6 published for the last month which was the base month for
7 purposes of subsection (k)(7) of the Policemen and Firemen's
8 Retirement and Disability Act before the repeal of such sub-
9 section by subsection (b) of this section, and (B) to any in-
10 crease in each annuity payable under such Act having a com-
11 mencing date after the effective date of such amendment.

12 (b) Subsection (k)(7) of the Policemen and Firemen's
13 Retirement and Disability Act (D.C. Code, sec. 4-531(7)) is
14 repealed.

15 (c) Section 301 of the District of Columbia Police and
16 Firemen's Salary Act of 1953 (D.C. Code, sec. 4-518) is
17 amended by adding at the end thereof the following new
18 subsection:

19 “(e) This section shall not apply with respect to officers
20 and members of the Metropolitan Police force or the Fire
21 Department of the District of Columbia who retire after the
22 effective date of this subsection.”.

23 (d) The amendments made by this section shall take
24 effect at the end of the ninety-day period beginning on the
25 date of the enactment of this Act.

1 AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

2 SEC. 210. Subsection (o) of the Policemen and Fire-
3 men's Retirement and Disability Act, as amended by section
4 205(b) of this Act and redesignated by section 209(a)(1)(A) of
5 this Act (D.C. Code, sec. 4-533), is amended by adding at
6 the end thereof the following new paragraph:

7 "(3) Except in a case of fraud against the District of
8 Columbia, the Mayor may waive collection of any amount
9 less than \$100 which was paid to an annuitant in excess of
10 the amount to which such annuitant was entitled under this
11 section."

12 COMMENCING DATE OF PAYMENT OF ANNUITIES

13 SEC. 211. Subsection (p) of the Policemen and Fire-
14 men's Retirement and Disability Act, as redesignated by sec-
15 tion 209(a)(1)(A) of this Act (D.C. Code, sec. 4-534), is
16 amended by inserting after "accrues monthly" in paragraph
17 (1) the following: "(except that an annuity accrues over any
18 portion of a month after the commencing date of such annuity
19 but before the first day of the next month and is payable for
20 such month in an amount pro rated in a manner to be deter-
21 mined by the Mayor)".

22 PAYMENT OF ANNUITIES TO MINORS AND MENTAL

23 INCOMPETENTS

24 SEC. 212. Subsection (p) of the Policemen and Fire-
25 men's Retirement and Disability Act, as redesignated by sec-

1 tion 209(a)(1)(A) of this Act and amended by section 211 of
2 this Act (D.C. Code, sec. 4-534), is amended by redesignat-
3 ing paragraphs (2) and (3) of such subsection as paragraphs
4 (3) and (4), respectively, and by inserting after paragraph (1)
5 the following new paragraph:

6 “(2) Payment due a minor, or an individual mentally
7 incompetent or under other legal disability, may be made to
8 the person who is constituted guardian or other fiduciary by
9 the law of the State of residence of the claimant or is other-
10 wise legally vested with the care of the claimant or his
11 estate. If a guardian or other fiduciary of the individual under
12 legal disability has not been appointed under the law of the
13 State of residence of the claimant, payment may be made to
14 any person who, in the judgment of the Mayor, is responsible
15 for the care of the claimant, and the payment bars recovery
16 by any other person.”.

17 IMPROVEMENTS IN ADMINISTRATION OF DISABILITY

18 RETIREMENTS

19 SEC. 213. Subsection (g) of the Policemen and Fire-
20 men's Retirement and Disability Act (as amended by section
21 204 of this Act) is further amended by adding at the end
22 thereof the following new paragraphs:

23 “(6) Not later than ninety days after the date of the
24 enactment of the District of Columbia Retirement Reform
25 Act, the Board of Police and Fire Surgeons shall submit to

1 the Mayor recommendations for regulations to establish spe-
2 cific criteria for determining whether an injury was incurred,
3 or a disease was contracted, in the performance of duty and
4 whether an injury or disease was aggravated in the perform-
5 ance of duty. The Mayor shall promulgate regulations estab-
6 lishing such criteria in a timely manner based on the recom-
7 mendations of the Board.

8 “(7)(A) In making determinations under this subsection
9 and under subsection (f), the Board of Police and Fire Sur-
10 geons and the Police and Firemen’s Retirement and Relief
11 Board shall make full use of the medical resources in the
12 District of Columbia and shall make the widest practical use
13 of the medical expertise available to them consistent with fair
14 and even administration of this Act.

15 “(B) Not later than ninety days after the date of the
16 enactment of the District of Columbia Retirement Reform
17 Act, the Board of Police and Fire Surgeons and the Police
18 and Firemen’s Retirement and Relief Board shall each
19 submit to the Mayor recommendations for regulations to
20 carry out the requirements of subparagraph (A). The Mayor
21 shall, in a timely manner and based on the recommendations
22 of such Boards, promulgate regulations to carry out the re-
23 quirements of such subparagraph.

24 “(C) Failure to promulgate such regulations, or failure
25 to comply with such regulations, shall not invalidate any de-

1 cision of the Mayor or the Police and Firemen's Retirement
2 and Relief Board with respect to the retirement of any
3 individual."

4 RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE
5 FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY
6 THE DISTRICT OF COLUMBIA GOVERNMENT

7 SEC. 214. Subsection (p) of the Policemen and Fire-
8 men's Retirement and Disability Act (as redesignated by sec-
9 tion 209(a)(1)(A) and amended by section 211) is amended by
10 adding at the end thereof the following new paragraph:

11 "(5) Notwithstanding any other provision of law, the
12 salary of any annuitant who first becomes entitled to an an-
13 nuity under this section after the date of the enactment of the
14 District of Columbia Retirement Reform Act and who is sub-
15 sequently employed by the government of the District of Co-
16 lumbia shall be reduced by such amount as is necessary to
17 provide that the sum of such annuitant's annuity under this
18 section and compensation for such employment is equal to
19 the salary otherwise payable for the position held by such
20 annuitant."

21 PART B—TEACHERS' AND JUDGES' RETIREMENT

22 BENEFITS

23 COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

24 SEC. 251. (a)(1) Section 21(b) of the Act entitled "An
25 Act for the retirement of public school teachers in the Dis-

1 trict of Columbia", approved August 7, 1946 (D.C. Code,
2 sec. 31-739a(b)), is amended to read as follows:

3 “(b)(1) The Mayor shall—

4 “(A) on January 1 of each year, or within a rea-
5 sonable time thereafter, determine the per centum
6 change in the price index published for December of
7 the preceding year over the price index published for
8 June of the preceding year, and

9 “(B) on July 1 of each year, or within a reason-
10 able time thereafter, determine the per centum change
11 in the price index published for June of such year over
12 the price index published for December of the preced-
13 ing year.

14 “(2) If in any year the per centum change determined
15 under either paragraph (1)(A) or (1)(B) indicates a rise in the
16 price index, then—

17 “(A) in the case of an increase under paragraph
18 (2)(A), (i) each annuity described in paragraph (2)
19 having a commencing date not later than March 1 of
20 such year shall, effective such March 1, be increased
21 by the per centum change computed under such para-
22 graph, adjusted to the nearest one-tenth of 1 per
23 centum, and (ii) each annuity described in such para-
24 graph having a commencing date after such March 1
25 but before the effective date of the next increase in an-

1 nuities under this paragraph shall, effective such com-
2 mencing date, be increased by such per centum, or

3 “(B) in the case of an increase under paragraph
4 (2)(B), (i) each annuity described in paragraph (2)
5 having a commencing date not later than September 1
6 of such year shall, effective such September 1, be in-
7 creased by the per centum change computed under
8 such paragraph, adjusted to the nearest one-tenth of 1
9 per centum, and (ii) each annuity described in such
10 paragraph having a commencing date after such Sep-
11 tember 1 but before the effective date of the next in-
12 crease in annuities under this paragraph shall, effective
13 such commencing date, be increased by such per
14 centum change, adjusted to the nearest one-tenth of 1
15 per centum.”.

16 (2) The amendment made by paragraph (1) shall apply
17 to any increase after the effective date of such amendment in
18 annuities payable from the District of Columbia teachers' re-
19 tirement and annuity fund established by section 2 of the Act
20 entitled “An Act for the retirement of public-school teachers
21 in the District of Columbia”, approved August 7, 1946, or
22 from the District of Columbia Teachers' Retirement Fund
23 established by section 123(a) of this Act, except that with
24 respect to the first date after the effective date of such
25 amendment on which the Mayor is to determine a per centum

1 change, such per centum change shall be determined by com-
2 puting the change in the price index published for the month
3 immediately preceding such first date over the price index
4 published for the last month before such effective date for
5 which the price index showed a per centum rise forming the
6 basis for a cost-of-living annuity increase under section 21(b)
7 of such Act of August 7, 1946, as in effect immediately
8 before the amendment of such section by paragraph (1).

9 (b) Section 21(c) of the Act entitled "An Act for the
10 retirement of public-school teachers in the District of Colum-
11 bia", approved August 7, 1946 (D.C. Code, sec.
12 31-739a(c)), is amended—

13 (1) by striking out "governed by the commencing
14 date of each annuity payable from the fund as of the
15 effective date of an increase" and inserting in lieu
16 thereof "as provided in subsection (b)(2)"; and

17 (2) by striking out "from the fund" in paragraph
18 (1) of such section.

19 (c) The amendments made by subsections (a) and (b)
20 shall take effect at the end of the ninety-day period beginning
21 on the date of the enactment of this Act.

22 COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

23 SEC. 252. (a) Section 11-1571(a) of title 11 of the Dis-
24 trict of Columbia Code is amended by inserting " , or who,
25 before the next such increase first becomes payable under

1 such section, receives such salary or annuity, either" immedi-
 2 ately after "salary or annuity".

3 (b) The amendment made by subsection (a) shall take
 4 effect at the end of the ninety-day period beginning on the
 5 date of the enactment of this Act.

6 INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

7 SEC. 253. (a)(1) The first section of the Act entitled
 8 "An Act for the retirement of a public-school teachers in the
 9 District of Columbia", approved August 7, 1946 (D.C. Code,
 10 sec. 31-721), is amended—

11 (A) in the first paragraph by inserting "or the end
 12 of the 90-day period beginning on the date of the en-
 13 actment of the District of Columbia Retirement Reform
 14 Act, whichever is earlier" immediately before the
 15 period at the end of the proviso in the second sentence;
 16 and

17 (B) in the second paragraph—

18 (i) in the first sentence—

19 (I) by striking out "at 3 per centum per
 20 annum compounded as of December 31 of
 21 each year" and inserting in lieu thereof
 22 "computed in accordance with section 24(a)
 23 of this Act" and

24 (II) by striking out "an interest rate of
 25 3 per centum per annum compounded annu-

1 ally" and inserting in lieu thereof "the inter-
2 est rate computed in accordance with section
3 24(a) of this Act"; and

4 (ii) in the second sentence, by inserting "to
5 the date of such death or separation or the end of
6 the 90-day period beginning on the date of enact-
7 ment of the District of Columbia Retirement
8 Reform Act, whichever is earlier" immediately
9 after "are made".

10 (2) Section 1A(b) of such Act (D.C. Code, sec.
11 31-721a(b)) is amended by striking out "with interest at 4
12 per centum compounded annually" in the first sentence and
13 inserting in lieu thereof ", with interest computed in accord-
14 ance with section 24(b) of this Act,".

15 (3) Section 8 of such Act (D.C. Code, sec. 31-728) is
16 amended in the first paragraph—

17 (A) in the second proviso in the sixth sentence—

18 (i) by striking out "the accumulated contribu-
19 tions and interest" and inserting in lieu thereof
20 "(1) the accumulated contributions", and

21 (ii) by inserting immediately before the colon
22 at the end of such proviso ", and (2) interest
23 thereon computed in accordance with section
24 24(b) of this Act"; and

1 (B) in the seventh sentence, by striking out “with
2 interest at 3 per centum per annum compounded
3 annually”.

4 (4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a))
5 is amended—

6 (A) in the first proviso—

7 (i) by inserting “(computed to the date of
8 separation or the end of the 90-day period begin-
9 ning on the date of the enactment of the District
10 of Columbia Retirement Reform Act, whichever is
11 earlier)” immediately after “thereon”, and

12 (ii) by inserting “(computed to the date of
13 separation or the end of the 90-day period begin-
14 ning on the date of the enactment of the District
15 of Columbia Retirement Reform Act, whichever is
16 earlier)” immediately after “interest” the second
17 time it appears;

18 (B) in the second proviso, by inserting “(including
19 the interest thereon) plus interest computed in accord-
20 ance with section 24(c) of this Act” immediately before
21 the colon at the end of such proviso; and

22 (C) in the third proviso, by striking out “, with
23 interest at 3 per centum compounded annually”.

24 (5) Section 10(f)(3) of such Act (D.C. Code, sec.
25 31-730(f)(3)) is amended by inserting after “interest” the

1 first time it appears “, earned prior to the end of the 90-day
2 period beginning on the date of the enactment of the District
3 of Columbia Retirement Reform Act.”.

4 (6) Such Act is further amended by adding at the end
5 thereof the following new section:

6 “SEC. 24. (a) For purposes of determining the amount
7 available to purchase an annuity under the second paragraph
8 of the first section of this Act, interest shall be deemed to
9 accrue on deposits at the following rates for the following
10 periods:

11 “(1) Prior to the end of the 90-day period begin-
12 ning on the date of the enactment of the District of
13 Columbia Retirement Reform Act, interest shall accrue
14 at the rate of 3 per centum per annum compounded as
15 of December 31 of each year.

16 “(2) For the period beginning at the end of the
17 90-day period beginning on the date of the enactment
18 of the District of Columbia Retirement Reform Act and
19 ending on September 30, 1981, interest shall accrue at
20 a rate which (as determined by the Mayor of the Dis-
21 trict of Columbia) is equal to the average rate of inter-
22 est on interest-bearing obligations of the United States
23 forming a part of the public debt (adjusted to the near-
24 est one-eighth of 1 per centum).

1 “(3) After October 1, 1981, interest shall accrue
2 at an annual rate which (as determined by the Mayor
3 of the District of Columbia) is equal to the average
4 annual rate of return on investment (adjusted to the
5 nearest one-eighth of 1 per centum) for the District of
6 Columbia Teachers’ Retirement Fund established by
7 section 123 of the District of Columbia Retirement
8 Reform Act.

9 “(b) Interest required on deposits under section 1A or 8
10 of this Act or under the Act of June 27, 1960, shall be com-
11 puted as follows:

12 “(1) Interest shall be paid at a rate which (as de-
13 termined by the Mayor of the District of Columbia) is
14 equal to the average rate of return on investment (ad-
15 justed to the nearest one-eighth of 1 per centum) for
16 the District of Columbia Teachers’ Retirement Fund
17 (established by section 123 of the District of Columbia
18 Retirement Reform Act) for the period beginning on
19 the first day of the first month which begins after the
20 midpoint of the period with respect to which the depos-
21 it is made and ending on the last day of the month
22 which precedes the month during which the deposit is
23 made if he makes a lump-sum payment or during
24 which he makes the first payment if he makes install-
25 ment deposits, except that—

1 “(A) for so much of any such period which
2 occurs between the end of the 90-day period be-
3 ginning on the date of the enactment of the Dis-
4 trict of Columbia Retirement Reform Act and Oc-
5 tober 1, 1980, the average rate of interest on in-
6 terest-bearing obligations of the United States
7 forming a part of the public debt (adjusted to the
8 nearest one-eighth of 1 per centum) shall be used
9 in determining the interest rate to be paid on de-
10 posits; and

11 “(B) for so much of any such period which
12 occurs prior to the end of the 90-day period be-
13 ginning on the date of the enactment of the Dis-
14 trict of Columbia Retirement Reform Act, the
15 rate of 3 per centum a year, compounded annual-
16 ly, shall be used in determining the interest rate
17 to be paid on deposits.

18 “(2) Interest shall be payable for the period be-
19 ginning on the first day of the first month which begins
20 after the midpoint of the period with respect to which
21 the deposit is made and ending on the last day of the
22 month which precedes the month during which the de-
23 posit is made.

1 “(3) If a teacher elects to make his deposit in in-
2 stallments, each payment shall include interest on that
3 portion of the refund which is then being redeposited.

4 “(c) Interest required on deposits under section 9(a) of
5 this Act shall be computed as follows:

6 “(1) Interest shall be paid at a rate which (as de-
7 termined by the Mayor of the District of Columbia) is
8 equal to the average rate of return on investment (ad-
9 justed to the nearest one-eighth of 1 per centum) for
10 the District of Columbia Teachers’ Retirement Fund
11 (established by section 123 of the District of Columbia
12 Retirement Reform Act) for the period beginning on
13 the first day of the first month which begins after the
14 end of the service period with respect to which the de-
15 posit is made and ending on the last day of the month
16 which precedes the month during which the deposit is
17 made if he makes a lump sum payment or during
18 which he makes the first payment if he makes install-
19 ment deposits, except that—

20 “(A) for so much of any such period which
21 occurs between the end of the 90-day period be-
22 ginning on the date of the enactment of the Dis-
23 trict of Columbia Retirement Reform Act and Oc-
24 tober 1, 1980, the average rate of interest on in-
25 terest-bearing obligations of the United States

1 forming a part of the public debt (adjusted to the
2 nearest one-eighth of 1 per centum) shall be used
3 in determining the interest rate to be paid on de-
4 posits; and

5 “(B) for so much of any such period which
6 occurs prior to the end of the 90-day period be-
7 ginning on the date of the enactment of the Dis-
8 trict of Columbia Retirement Reform Act, the
9 rate of 3 per centum a year, compounded annual-
10 ly, shall be used in determining the interest rate
11 to be paid on deposits.

12 “(2) Interest shall be payable for the period be-
13 ginning on the first day of the first month which begins
14 after the end of the service period with respect to
15 which the deposit is made and ending on the last day
16 of the month which precedes the month during which
17 the deposit is made.

18 “(3) If a teacher elects to make his deposit in in-
19 stallments, each payment shall include interest on that
20 portion of the refund which is then being redeposited.”.

21 (b) The Act entitled “An Act to authorize certain teach-
22 ers in the public schools of the District of Columbia to count
23 as creditable service for retirement purposes certain periods
24 of authorized leave without pay taken by such teachers for

1 educational purposes", approved June 27, 1960 (D.C. Code,
2 sec. 31-745), is amended—

3 (1) by striking out "and interest"; and

4 (2) by inserting immediately before the colon at
5 the beginning of the proviso "plus interest computed in
6 accordance with section 24(b) of such Act of August 7,
7 1946".

8 (c) The amendments made by this section shall take
9 effect at the end of the ninety-day period beginning on the
10 date of the enactment of this Act.

11 INTEREST ON JUDGES' REDEPOSITS

12 SEC. 254. (a) Subchapter III of chapter 15 of title 11 of
13 the District of Columbia Code is amended—

14 (1) in section 11-1561—

15 (A) in paragraph (9)(C), by inserting immedi-
16 ately before the semicolon at the end thereof "or
17 the end of the 90-day period beginning on the
18 date of the enactment of the District of Columbia
19 Retirement Reform Act, whichever is earlier",
20 and

21 (B) in paragraph (10)(C), by inserting imme-
22 diately before the semicolon at the end thereof
23 "or the end of the 90-day period beginning on the
24 date of the enactment of the District of Columbia

1 Retirement Reform Act, whichever is earlier”;
2 and

3 (2) in section 11-1569(c), by inserting “or the end
4 of the 90-day period beginning on the date of the en-
5 actment of the District of Columbia Retirement Reform
6 Act, whichever is earlier” immediately after “such
7 judge” and before the comma.

8 (b) Such subchapter III is further amended—

9 (1) in section 11-1563(b), by striking out “at 4
10 per centum per annum to December 31, 1947, and 3
11 per centum per annum thereafter, compounded on De-
12 cember 31 of each year” and inserting in lieu thereof
13 “computed in accordance with section 11-1564(d)(2)”;

14 (2) by amending section 11-1564(d)(2) to read as
15 follows:

16 “(2) Interest on deposits under this subsection and sec-
17 tion 11-1567 (b) shall be computed as follows:

18 “(A) Interest shall be paid at a rate which (as de-
19 termined by the Mayor of the District of Columbia) is
20 equal to the average rate of return on investment (ad-
21 justed to the nearest one-eighth of 1 per centum) for
22 the District of Columbia Judges’ Retirement Fund (es-
23 tablished by section 124 of the District of Columbia
24 Retirement Reform Act) for the period beginning on
25 the first day of the first month which begins after the

1 end of the service period with respect to which the de-
2 posit is made and ending on the last day of the month
3 which precedes the month during which the deposit is
4 made if he makes a lump sum payment or during
5 which he makes the first payment if he makes install-
6 ment deposits, except that—

7 “(i) for so much of any such period which
8 occurs between the end of the 90-day period be-
9 ginning on the date of the enactment of the Dis-
10 trict of Columbia Retirement Reform Act and Oc-
11 tober 1, 1980, the average rate of interest on in-
12 terest-bearing obligations of the United States
13 forming a part of the public debt (adjusted to the
14 nearest one-eighth of 1 per centum) shall be used
15 in determining the interest rate to be paid on de-
16 posits;

17 “(ii) for so much of any such period which
18 occurs between January 1, 1948, and the end of
19 the 90-day period beginning on the date of the
20 enactment of the District of Columbia Retirement
21 Reform Act, the rate of 3 per centum a year,
22 compounded annually, shall be used in determin-
23 ing the interest rate to be paid on deposits; and

24 “(iii) for so much of any such period which
25 occurs prior to January 1, 1948, the rate of 4 per

1 centum a year, compounded annually, shall be
2 used in determining the interest rate to be paid on
3 deposits.

4 “(B) Interest shall be payable for the period be-
5 ginning on the first day of the first month which begins
6 after the end of the service period with respect to
7 which the deposit is made and ending on the last day
8 of the month which precedes the month during which
9 the deposit is made.

10 “(C) If a judge elects to make his deposit in in-
11 stallments, each payment shall include interest on that
12 portion of the refund which is then being redeposited.
13 Interest may not be charged for a period of separation from
14 the service which began before October 31, 1956.”; and

15 (3) in section 11-1567(b), by striking out “at 4
16 per centum per annum to December 31, 1947, and 3
17 per centum per annum thereafter, compounded on De-
18 cember 31 of each year” and inserting in lieu thereof
19 “computed in accordance with section 11-1564(d)(2)”.

20 (c) The amendments made by this section shall take
21 effect at the end of the ninety-day period beginning on the
22 date of the enactment of this Act.

1 RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT
2 OF PREDECEASED BENEFICIARIES

3 SEC. 255. (a) Section 5(b) of the Act entitled "An Act
4 for the retirement of public school teachers in the District of
5 Columbia", approved August 7, 1946 (D.C. Code, sec.
6 31-725(b)), is amended by adding at the end thereof the fol-
7 lowing new paragraph:

8 "(4) In the event an individual designated as a surviving
9 widow or widower or as a survivor annuitant under this sub-
10 section predeceases the teacher designating such individual,
11 the annuity of such teacher shall, effective the day after the
12 death of such individual, be the amount it would have been if
13 no such beneficiary had been named."

14 (b) The amendment made by subsection (a) shall take
15 effect on October 1, 1978, or at the end of the ninety-day
16 period beginning on the date of the enactment of this Act,
17 whichever is later.

18 TERMINATION OF TEACHERS' DISABILITY ANNUITIES
19 BASED ON OUTSIDE EARNED INCOME

20 SEC. 256. Section 4 of the Act entitled "An Act for
21 retirement of public school teachers in the District of Colum-
22 bia", approved August 7, 1946 (D.C. Code, sec. 31-724), is
23 amended by inserting after the second paragraph thereof the
24 following new paragraph:

1 “Notwithstanding the foregoing provisions of this sec-
2 tion, if during any calendar year an annuitant who is receiv-
3 ing a disability annuity under this section and who has not
4 reached retirement age (as defined in section 3) receives
5 income from wages or self-employment, or both, in an
6 amount not less than 80 per centum of the current rate of
7 pay of the position occupied by the annuitant before retire-
8 ment, the annuity of such annuitant shall be terminated by
9 the Board of Education effective January 1 of the first calen-
10 dar year after such calendar year, except that this sentence
11 shall not apply with respect to income received during the
12 year in which the annuitant retired. The annuity of any annu-
13 itant whose annuity is terminated under the preceding sen-
14 tence shall be restored, at the rate which would have been in
15 effect but for such termination, effective January 1 of any
16 year following a year during which the amount of such annu-
17 itant's income from wages and self-employment is less than
18 80 per centum of the current rate of pay of the position occu-
19 pied by the annuitant before retirement, or effective immedi-
20 ately if the Board of Education determines that, outside of
21 normal fluctuations in such annuitant's income, such annu-
22 itant's income is reduced to a level which on an annual basis
23 is less than 80 per centum of such current rate of pay.”.

1 RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY
2 WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA
3 GOVERNMENT

4 SEC. 257. The Act entitled "An Act for retirement of
5 public school teachers in the District of Columbia", approved
6 August 7, 1946 (D.C. Code, sec. 31-721 et seq.), is amend-
7 ed by adding after section 24 (as added by section 253(a)(6))
8 the following new section:

9 "SEC. 25. Notwithstanding any other provision of law,
10 the salary of any retired teacher who first becomes entitled to
11 an annuity under this Act after the date of the enactment of
12 the District of Columbia Retirement Reform Act and who is
13 subsequently employed by the government of the District of
14 Columbia shall be reduced by such amount as is necessary to
15 provide that the sum of such teacher's annuity under this Act
16 and compensation for such employment is equal to the salary
17 otherwise payable for the position held by such teacher."

EXPLANATION OF THE BILL

The CHAIRMAN. The Chair will take such time as he may consume to explain the legislation.

The bill provides for an independent board of trustees with fiduciary responsibility over funds, permits certain types of investments; it requires that the funds be managed on an actuarially sound basis for proper financing, and directs the board to comply with reporting and disclosure requirements similar to ERISA's requirements for private pension plans.

This bill is essentially the same one that was passed last fall by the Congress and vetoed by the President; however, it does make certain changes with respect to the concerns expressed by the President. We have reduced, by a small amount, the Federal appropriation. This means that while it is essentially the same amount of money, the authorization will cover less of the Federal obligation to the fund, which this committee has always maintained was the total accrued unfunded liability for those police officers, firefighters, teachers, and judges who retired prior to Home Rule.

This bill defines the Federal share of 100 percent of the approved unfunded liability of those on nondisability retirement and 33⅓ percent of the accrued unfunded liability of those on disabled retirement as of Home Rule. This amounts to \$61.5 million per year for the next 25 years. The total authorization will be around \$1.5 billion.

The administration of the fund has also been strengthened by requiring the city to stay within the average of the disability retirement percentages of the five largest police and fire departments in the country. If they are not, the Federal contribution will be reduced by the percentage they go over this average.

We also added reporting requirements so that the city and Federal Government will be able to determine the soundness of the funds. Other amendments eliminate the 1-year grace period and the annuitant as to draw his annuity after a determination has been made that he has recovered, and to eliminate doubledipping by the employees of the District of Columbia.

Prior to voting we recommend that we favorably report this bill. The Chair would recognize the distinguished ranking minority member, who worked diligently on this measure.

Mr. McKINNEY. Mr. Chairman, I agree with everything you said. I think you've covered this bill very carefully and clearly. The damage that has been done to the city by that advice given to the President, causing his veto last year, I think has taught us all the fact that this bill must go ahead. As the chairman knows, I still think that we are "putting it" to the city a little bit in that none of the people of the city of Washington had a chance to vote on this plan, which they're stuck with. But I think the new plan is certainly a good one and we're dealing in a world of political realities. I trust that we'll be able to deliver this message to Pennsylvania Avenue if we can deliver it through the House and the Senate in this year of proposition 13.

The CHAIRMAN. I thank my colleague. Is there any further discussion?

Mr. MAZZOLI. Mr. Chairman, thank you. I appreciate the gentleman's recognizing me just for a couple of seconds to say that I think the gentleman has exercised over the past Congress, the 95th, and in

this Congress, great leadership on this issue. It's one that he and I worked on and, in fact, the bill has gone through the conference, a fairly long and pretty protracted and difficult conference, and we hammered out a bill that we thought was a pretty good bill. While with respect to Mr. President and his right to veto I think that this bill which is before us today for which I certainly intend to cast a vigorous "aye" vote, is an even better piece of legislation and more defensible. I would hope that somehow with strong votes in the House and Senate and, I trust, a brief and clear-cut conference, we can deliver a bill downtown that, I think, would earn our President's support. So I congratulate the gentleman on his sticking to business, and I think that this is a very fine tribute to his work.

The CHAIRMAN. I thank the gentleman very much for his kind remarks. The Chair understands that there may well be some difficulty in some of the figures that we have developed with respect to defining the Federal share. The Chair will yield to counsel for an explanation.

Mr. BRAUER. Mr. Chairman, this morning, in fact, almost a minute or two ago, it was brought to our attention that there may be a problem with the figures based on the actuarial data. We did not anticipate a significant difference and, in fact, staff is checking those right now, but in order for the committee to move forward, any changes that would be made would be made commensurate with the assumptions the committee has made in the bill otherwise. It would be just changing numbers in terms of annual authorizations. And I would ask permission that staff be allowed to, in fact, check those numbers and bring them up to the intent of the committee.

The CHAIRMAN. The Chair would recognize the gentleman from Connecticut.

Mr. McKINNEY. I would ask, Mr. Chairman, that the staff be allowed to make the technical changes in the numbers as described by counsel.

The CHAIRMAN. Is there any discussion or objection?

[No response.]

The CHAIRMAN. If not, so ordered.

The Chair would now move adoption of the bill, unless there is any further discussion on the bill, H.R. 3939? The Chair would move adoption of that legislation and that it be favorably reported to the House. Do I have a second?

Mr. McKINNEY. Second.

The CHAIRMAN. All those in favor of the motion signify by saying "aye."

[A chorus of ayes.]

The CHAIRMAN. Those opposed?

[No response.]

The CHAIRMAN. The ayes have it and the motion is carried.

Mr. McKINNEY. Mr. Chairman, I've been requested to state that had Mrs. Fenwick been here, she would have voted "aye." Mr. Marks, had he been here, would have voted "aye," and had Mr. Daniels been here, he would have voted "aye."

The CHAIRMAN. That will be duly noted.

[Whereupon, at 11:12 a.m., the committee markup of H.R. 3939 adjourned.]

[For report of the committee to the House on H.R. 3939, see H. Rept. 96-155, filed May 15, 1979.]

