

COUNCIL OF THE DISTRICT OF COLUMBIA

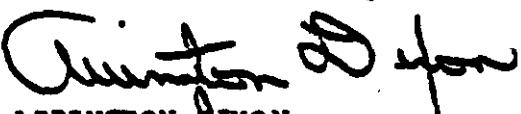
NOTICE

D. C. LAW 2-139

"District of Columbia Government Comprehensive Merit Personnel Act of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 2-10, on first and second readings, October 17, 1978 and October 31, 1978 respectively. Following the signature of the Mayor on November 22, 1978, this legislation was assigned Act No. 2-300, published in the December 1, 1979, edition of the D.C. Register, (Vol. 25 page 5740) and transmitted to Congress on January 18, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 2-139, effective March 3, 1979.

  
ARRINGTON NIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 18, 19, 22, 23, 24, 25, 26, 29, 30, 31

February 1, 2, 5, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22,  
23, 26, 27, 28

March 1, 2

D.C. LAW 2-139

Enrolled Original

EFFECTIVE DATE MAR 03 1979

AN ACT

2-300

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 22, 1978

To establish a uniform system of merit personnel administration for the District of Columbia government.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "District of Columbia  
Government Comprehensive Merit Personnel Act of 1978".

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TITLE I

FINDINGS AND PURPOSE

Sec. 102. Findings

The Council of the District of Columbia finds that:

(a) The provisions of section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act (hereinafter referred to as the "Home Rule Act") (87 Stat. 791; D.C. Code, sec. 1-162(3)) require that the Council of the District of Columbia adopt a comprehensive merit system of personnel management for the Government of the District of Columbia before January 2, 1980.

(b) The provisions of sections 201(f), 204(g), 422(3), 713(c) and(d) and 714(c) of the Home Rule Act (87 Stat. 779; D.C. Code, secs. 5-713 note, 36-701 note, 1-162(3), 1-131 note and 1-133(c)) guarantee certain benefits to incumbent employees of the District of Columbia government and those persons transferred to the District of Columbia government from the formerly independent National Capital Housing Authority, District of Columbia Redevelopment Land Agency and the District of Columbia Department of Manpower including, without limitation, benefits relating to

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appointments, promotions, discipline, separation, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance and veterans preference.

(c) The present authority for filling positions within the District of Columbia government is fragmented, both between the United States Civil Service Commission and the District of Columbia government, and among various subdivisions of the District government, such as, the District of Columbia Board of Education, the Trustees of the University of the District of Columbia and other independent boards and commissions.

Sec. 103. Purpose

(a) The Council of the District of Columbia declares that it is the purpose and policy of this act to assure that the District of Columbia government shall have a modern flexible system of public personnel administration, which shall:

(1) provide for increasingly autonomous control over personnel administration by the District of Columbia government;

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(2) create uniform systems for personnel administration among the executive departments and agencies reporting directly to the Mayor of the District of Columbia and among independent agencies, boards and commissions in the District of Columbia government;

(3) create separate personnel management systems for educational employees of the District of Columbia Board of Education and the University of the District of Columbia;

(4) insure the efficient administration of this personnel system;

(5) establish impartial and comprehensive administrative or negotiated procedures for resolving employee grievances;

(6) provide for a positive policy of labor-management relations including collective bargaining between the District of Columbia government and its employees; and

(7) establish the means to recruit, select, develop and maintain an effective and responsive work force consistent with merit principles.

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(d) The Career and Educational Services established in titles VIII and VIIa of this act shall follow merit principles such as the following:

- (1) recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills, including open and competitive consideration of qualified applicants for initial appointment;
- (2) providing equitable and adequate compensation;
- (3) training employees, as needed, to assure high-quality performance;
- (4) retaining employees on the basis of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected; and
- (5) assuring, as provided in this act, fair treatment of applicants and employees in all aspects of employment without regard to political affiliation, race, color, national origin, sex, religious belief, age, marital status, personal physical appearance, sexual orientation or preference, family responsibilities, physical handicap or developmental disability. A proper regard shall be accorded

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all rights of privacy and other constitutionally protected rights of citizens.

(c) Employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

## TITLE II

### COVERAGE; STATUS OF PRESENT EMPLOYEES; RETENTION OF EXISTING PERSONNEL RIGHTS AND BENEFITS

#### Sec. 201. Coverage; Exceptions

Unless specifically exempted from certain provisions, this act shall apply to all employees of the District of Columbia government, except the chief judges and associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals and the non-judicial personnel of said courts.

#### Sec. 202. Limited Application of this Act

The provisions of this act shall apply to the following employees of the District of Columbia government only to the following extent:

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(a) The Mayor and each Member of the Council of the District of Columbia are entitled to pay, as provided in section 1109 of this act, in accordance with the provisions of sections 421(d) and 403(a) of the District of Columbia Self-Government and Governmental Reorganization Act (97 Stat. 737; D.C. Code, secs. 1-161(d) and 1-143(a)). The Mayor and each Member of the Council of the District of Columbia may participate in personnel benefit programs authorized in titles XXI, XXII, XXIII and XXVI of this act, and are covered by the provisions of titles XVIII, XXV, XXIX, XXX and XXXI, and section 408 of this act.

(b) The President and each Member of the District of Columbia Board of Education are entitled to pay, as provided in section 1110 of this act, and may participate in personnel benefit programs authorized in titles XXI, XXII, XXIII, and XXVI of this act. The President and each member of the District of Columbia Board of Education are covered by the provisions of titles XVIII, XXV, XXIX, XXX, XXXI and section 408 of this act.

(c) Unless pay is set in accordance with other provisions of this act, each member of a board or commission who is paid under the authority of a provision of title XI of this act, other than section 1108, is entitled to pay as

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provided in section 1103 of this act, and is covered by the provisions of titles XVIII, XXIII, XXV, XXIX, XXX, XXXI and section 409 of this act. Under rules and regulations issued by the Mayor, each member of a board or commission may be covered by the provision of titles XXI, XXII and XXVI of this act.

(d) Each person employed as an educational employee of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall be governed by the provisions of section 203 of this act.

Sec. 203. Educational Employees of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia.

(a) Educational employees of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall be governed by the provisions of this act with the exception of titles VIII, IX (except to the extent provided therein) and X. Title VIIIA will only apply to such educational employees.

(b) Educational employees of the Board of Trustees of the University of the District of Columbia shall not be governed by the provisions of section 901 of this act

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relating to the development of job descriptions in consultation with the Mayor. The Board of Trustees of the University of the District of Columbia shall develop policies on classification, appointment, promotion, retention and tenure of employees consistent with the educational mission of the University and in accordance with sound policies and practices of land-grant universities which meet the standards established by the College and University Personnel Association. Additionally, educational employees shall not be covered by the following titles: VIII, X, XI (except as it provides for pay setting), XIII, XIV, XVII and XXIV.

Sec. 204. Status of Employees Employed by the District of Columbia Government on the Date that this Act Becomes Effective as Provided in Section 3602 of this Act; Retention of Existing Rights.

(a) Persons employed by the District of Columbia government serving on the date that this act becomes effective, as provided in section 3602 of this act, shall be guaranteed rights and benefits at least equal to those currently applicable to such persons under provisions of personnel law and rules and regulations in force on the date

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immediately prior to the date that this act becomes effective as provided in section 3602 of this act.

(b) All provisions of existing contracts between the District government and labor organizations shall be honored until their expiration.

(c) On January 1, 1980, all persons employed by the District of Columbia government, including those persons employed by the District of Columbia government on the date that this act becomes effective as provided in section 3602 of this act, shall automatically transfer into the appropriate personnel system as established pursuant to titles VIII, VIIIA or section 904 of this act. The classification of and compensation for the position assumed upon transfer, and the rights and benefits inhering in such position, shall be at least equal to the classification, compensation, rights and benefits associated with the position from which said employee is transferred. The rights and benefits protected under this subsection shall be only those applicable to said employees under the provisions of personnel laws and rules and regulations in force on December 31, 1979: PROVIDED HOWEVER, That no employee covered under the provision of this subsection shall be reduced in pay except as provided in title XXIV of this act.

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(d) After January 1, 1980, persons employed by the District of Columbia government on the date that this act becomes effective as provided in section 3602 of this act and who transfer into the appropriate personnel system, pursuant to subsection (c) of this section, shall be governed by the provisions of this act, with the exception of subsection (e) of section 801 and subsection (d) of section 801A of this act.

(e) Employees hired on or after the date that this act becomes effective as provided in section 3602 of this act shall be governed by all the provisions of this act without exception.

Sec. 205. Development of New Personnel System.

In accordance with the provisions of section 204 of this title, the Mayor and each personnel authority shall cause the development of unified systems for all employees of the District of Columbia government. Each employee of the District of Columbia government employed on December 31, 1979, shall be guaranteed no reduction of current pay and benefits except as provided in title XXIV of this act.

Sec. 206. Supersession Provisions; Effectiveness of Collective Bargaining on Compensation Matters

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On the date that the provisions of section 1716 of this act become operational and negotiations commence concerning compensation matters, all employees of the District government in the appropriate bargaining units under section 1716 of this act, including those described in section 204 of this title, shall be subject to the procedures and provisions for establishing compensation provided in section 1716: PROVIDED, HOWEVER, That no employee subject to the provisions of section 204 of this title shall be reduced in actual pay, except in accordance with the provisions of title XXIV of this act.

### TITLE III

#### DEFINITIONS

Sec. 301. For the purpose of this act unless otherwise required by the context:

(a) The term "agency" means any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia or by the Council of the District to administer any law, rule or any regulation adopted under authority of law. The term "agency" shall also include any unit of the District of Columbia government created by the reorganization of one or more of the units of an agency and

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any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency.

(b) On the date that this act becomes law, the terms "boards and commissions" shall include the following:

Board of Accountancy

Commission on Aging

Alcoholic Beverage Control Board

Board of Appeals and Review

Apprenticeship Council

Board of Examiners and Registrars of Architects

Commission on Arts and Humanities

Board of Examiners of Barbers

District of Columbia Boxing and Wrestling Commission

Board of Cosmetology

Board for the Condemnation of Insanitary Buildings

Contract Appeals Board

Criminal Justice Coordinating Board

Board of Dental Examiners

Developmental Disabilities Planning Council

Educational Institution Licensure Commission

District of Columbia Board of Elections and Ethics

Electric Board

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Board of Registration for Professional Engineers  
Board of Equalization and Review  
Mayor's Committee on Food, Nutrition and Health  
Board of Funeral Directors and Embalmers  
D.C. General Hospital Commission  
Board of Trustees of Group Hospitalization, Inc.  
Hackers' License Appeal Board  
Commission on Licensure to Practice the Healing Arts  
Historical Records Advisory Board  
Board of Labor Relations  
Commission on Latino Community Development  
District of Columbia Law Revision Commission  
District of Columbia Advisory Council for the  
Legal Services Corporation  
Board of Library Trustees  
Minimum Wage and Industrial Safety Board  
Minority Business Opportunity Commission  
National Capital Housing Authority Advisory Board  
District of Columbia Neighborhood Reinvestment Commission  
Board of Optometry  
Board of Parole  
Public Service Commission  
Board of Trustees of the People's Involvement Corporation  
Board of Pharmacy

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Physical Therapists Examining Board  
Board of Plumbing  
Board of Podiatry Examiners  
Police Complaint Review Board  
Police and Firemen's Retirement and Relief Board  
Board of Police and Fire Surgeons  
Commission on Postsecondary Education  
Practical Nurses Examining Board  
Board of Psychologist Examiners  
Board of Trustees of the District of Columbia  
Public Defender Service  
Public Information Review Board  
Board for Removal from Office of Public Notaries  
Real Estate Commission  
Community Recreation Advisory Board  
District of Columbia Redevelopment Land Agency  
Refrigeration and Air Conditioning Board  
Nurses' Examining Board  
Rental Accommodations Commission  
Statewide Health Coordinating Council  
Steam and Other Operating Engineers' Board  
Citizens' Traffic Board  
District Unemployment Compensation Board  
Board of Trustees for United Planning Organization

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Board of Trustees of the University of the District of Columbia

Board of Examiners in Veterinary Medicine

Commission for Women

Board of Zoning Adjustment

Zoning Commission

and shall include other boards and commissions established by the Mayor or the Council after the date that this act becomes law as provided in section 3601 of this act, but does not include intergovernmental organizations or those associated with the judiciary or interagency committees.

(c) The term "career service" means positions in the District of Columbia government as provided for in title VIII and section 204 of this act.

(d) The term "Council" means the Council of the District of Columbia, created pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 785; D.C. Code, sec. 1-141).

(e) The term "District" means the District of Columbia government (D.C. Code, sec. 1-102).

(f) The term "educational employee" means an employee of the District of Columbia Board of Education or of the Board of Trustees of the University of the District of Columbia,

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except persons employed in any of the following types of positions:

(1) clerical, stenographic or secretarial positions;

(2) custodial, building maintenance, building engineer, general maintenance or general engineering positions;

(3) bus drivers and other drivers involved in the transportation of persons, equipment, materials or inventory;

(4) cooks, dieticians and other positions involved in the direct planning, preparation, service and conditions of preparation and service of food;

(5) technicians involved in the operation or maintenance of machinery, vehicles, equipment or the processing of materials and inventory; or

(6) positions the major duties of which consist of the supervision of employees covered in paragraphs (1) through (5) of this definition: PROVIDED, HOWEVER, That this paragraph shall not be deemed to include heads of academic units at the University of the District of Columbia.

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(g) The term "employee" means, except when specifically modified in this act, an individual who performs a function of the District government and who receives compensation for the performance of such services.

(h) The term "excepted service" means positions in the District of Columbia government as provided for in title IX of this act.

(i) The term "executive service" means any subordinate agency head whom the Mayor is authorized to appoint in accordance with title X of this act.

(j) The term "grievance" means any matter under the control of the District government which impairs or adversely affects the interest, concern, or welfare of employees.

(k) The term "head" means the highest ranking executive official of an agency.

(l) The term "holidays" means any day established as a legal holiday pursuant to title XII of this act.

(m) The term "independent agency" means any board or commission of the District of Columbia government not subject to the administrative control of the Mayor

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including, but not limited to, the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, the Armory Board, the Board of Elections and Ethics, the Public Service Commission, the Zoning Commission for the District of Columbia, the Public Employee Relations Board and the Office of Employee Appeals. For the purposes of this act, the Council of the District of Columbia, the Superior Court of the District of Columbia, and the District of Columbia Court of Appeals shall be considered independent agencies of the District of Columbia. For the purposes of title XXVIII of this act, the Washington Metropolitan Area Transit Commission shall be considered an independent agency of the District.

(n) The term "personnel authority" means an individual with the authority to administer all or part of a personnel management program as provided in title IV of this act.

(o) The term "resident" means any person who is a domiciliary of the District of Columbia and who throughout his or her employment by the District maintains a place of abode in the District of Columbia as his or her actual, regular and principal place of occupancy;

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(o) The term "standard" means any criterion, guideline or measure established by appropriate authority for the purpose of making objective comparisons or determinations for such purposes including, but not limited to, the classification of positions, establishment of pay, evaluation of qualifications and appraisal of work performance.

(q) The term "subordinate agency" means any agency under the direct administrative control of the Mayor, including the following on the date of adoption of this act:

- (1) Office of the Corporation Counsel  
(Reorganization Order 50);
- (2) Department of Corrections (Organization Order 7);
- (3) Department of Economic Development (1 App., Reorganization Order 55);
- (4) Department of Environmental Services  
(Commissioner's Order 71-255);
- (5) Department of Finance and Revenue  
(Commissioner's Order 59-95);
- (6) Fire Department (Reorganization Order 6);

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- (7) Department of General Services (Commissioner's Order 69-96);
- (8) Department of Housing and Community Development (Reorganization Plan 3 of 1975);
- (9) Department of Human Resources (Commissioner's Order 70-83);
- (10) Department of Insurance (Reorganization Order 43);
- (11) District of Columbia Department of Labor (Reorganization Plan 1 of 1978);
- (12) Metropolitan Police Department (D.C. Code, sec. 4-101 et seq.);
- (13) Minimum Wage and Industrial Safety Board (Reorganization Order 36);
- (14) Public Affairs Office (Organization Order 2);
- (15) Recorder of Deeds (Organization Order 101);
- (16) Department of Recreation (Organization Order 10);

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- (17) Office of the Surveyor (Reorganization Order 27);
- (18) Department of Transportation (Reorganization Plan 2 of 1975);
- (19) Office of Budget and Management Systems (Commissioner's Order 74-264);
- (20) Office of Emergency Preparedness (Commissioner's Order 74-261);
- (21) Office of Consumer Protection (D.C. Law No. 1-76, D.C. Code, title 28 appendix);
- (22) Office of Human Rights (Commissioner's Order 71-224);
- (23) Municipal Planning Office (Commissioner's Order 74-264)
- (24) Personnel Office (Organization Order 2);
- (25) Office of the Secretariat (Organization Order 2);
- (25) Office on Latino Affairs (D.C. Law 1-86, D.C. Code, sec. 6-1911);

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- (27) Office on Aging (D.C. Law 1-21, D.C. Code, sec. 6-1711);
- (28) Board of Appeals and Review (Organization Order No. 112);
- (29) Board of Parole (Organization Order 5);
- (30) District Unemployment Compensation Board (Reorganization Order 37);
- (31) Commission for Women (Organization Order 38);
- (32) Office of Business and Economic Development (D.C. Law 1-97; D.C. Code, sec. 1-1352);  
and shall include other subordinate agencies established by the Mayor or the Council after the date that this act becomes law as provided in section 3601 of this act.

#### TITLE IV

#### ORGANIZATION FOR PERSONNEL MANAGEMENT

##### Sec. 401. Policy

It is the intent of the Council that the District's personnel management system provide for equitable application of appropriate rules or regulations among all

agencies. Further, it is the intent of the Council that the rules, regulations and standards issued by the personnel authorities under this act should be as flexible and responsive as possible and reflect an awareness of innovation in the fields of modern personnel management and public administration.

Sec. 402. Office of Personnel

(a) There is established an Office of Personnel, the head of which is the Director of Personnel.

(b) The Director of Personnel shall be appointed by the Mayor in accordance with the provisions of title X of this act.

(c) To be eligible for appointment as Director of Personnel a person shall have demonstrated, through his or her knowledge and experience, the ability to administer a public personnel program of the size and complexity of the program established by this act.

(d) The Mayor may delegate his or her authority under this act, in whole or in part, to the Director of Personnel.

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Sec. 403. Authority of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia

The District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia may delegate their duties and functions under this act, in whole or in part, to employees under their respective jurisdictions.

Sec. 404. Issuance of Rules and Regulations Affecting Personnel for Employees of the District of Columbia

(a) The Mayor shall issue rules and regulations to implement the provisions of titles II, IV, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII and XXXIV of this act, for all employees of the District of Columbia, except as may be otherwise provided in this title.

(b) The District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall each issue rules and regulations to implement the provisions of title VIIIA of this act.

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(c)(1) The District of Columbia Board of Education shall issue rules and regulations to implement the provisions of titles VII, XIII, XIX, XXIV and XXVII, and sections 203, 403 and 1111 for educational employees under its respective jurisdictions.

(2) The Board of the University of the District of Columbia shall issue rules and regulations to implement the provisions of titles VII and XXVII, and sections 203, 403 and 1111 for educational employees under its jurisdiction.

(d) The District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall each issue rules and regulations to implement the provisions of titles XII, XIV, XVI, XVII, XXV and XXXI, and section 202(b) of this act for all employees under their respective jurisdictions.

(e) The Public Employee Relations Board shall issue rules and regulations to carry out its authority under titles V and XVII of this act;

(f) The Office of Employee Appeals shall issue rules and regulations to carry out its authority under title VI of this act.

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(g) The District of Columbia Board of Elections and Ethics shall issue rules and regulations to carry out its authority under title XXV of this act.

(h) Except where proscribed by law or issued under the authority of subsections (e), (f) or (g) of this section, rules and regulations issued pursuant to this act shall not be a bar to collective bargaining during the negotiation process with an exclusively recognized labor organization.

Sec. 405. Issuance of Rules and Regulations

Rules and regulations proposed or issued under section 404 of this act and amendments thereto, shall be issued according to the provisions of section 5 of the District of Columbia Administrative Procedure Act (82 Stat. 1206; D.C. Code, sec. 1-1505): PROVIDED, HOWEVER, That when such rules and regulations are issued under the authority of D.C. Code, sec. 1-1505(a), the thirty (30) day time period required by that section shall be extended to sixty (60) days.

Sec. 406. Personnel Authority

(a) The implementation of the rules and regulations shall be undertaken by the appropriate personnel authority for employees of the District.

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(o) For the purposes of subsection (a) of this section, the personnel authority for District of Columbia government means the Mayor for all employees, except as provided in section 203 of this act and as follows:

(1) for non-educational employees of the District of Columbia Board of Education, the personnel authority is the District of Columbia Board of Education;

(2) for non-educational employees of the Board of Trustees of the University of the District of Columbia, the personnel authority is the Board of Trustees of the University of the District of Columbia;

(3) for employees of the Council of the District of Columbia, the personnel authority is (A) the Chairman of the Council for all central staff of the Council. For the purposes of this title, the term "central staff of the Council" refers to those employees described in section 903(a)(3) of this act except those assigned to an individual member of the Council: PROVIDED, HOWEVER, That the Secretary, General Counsel, and Legislative Counsel to the Council shall be appointed by the Council of the District of Columbia according to its Rules of Procedure and Organization; and (B) each Member of the Council for his or her personal and committee staff: PROVIDED, HOWEVER, That

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the respective Committees of the Council shall approve the appointment of each committee staffperson. The Chairman and each Member of the Council shall utilize the Secretary to the Council for the actual transaction of all personnel matters for employees of the Council;

(4) for employees of the District of Columbia Board of Elections and Ethics, the personnel authority is the District of Columbia Board of Elections and Ethics:  
PROVIDED, HOWEVER, That this authority shall not apply to the Director of Campaign Finance (D.C. Code, sec. 1-1151). For employees in the Office of Director of Campaign Finance, the personnel authority is the Director of Campaign Finance;

(5) for employees of the Public Service Commission, the personnel authority is the Public Service Commission:  
PROVIDED, HOWEVER, That the People's Counsel (D.C. Code, sec. 43-205) shall be appointed according to law and for employees under the direct administrative control of the People's Counsel, the personnel authority is the People's Counsel;

(6) for the Executive Director of the Public Employee Relations Board, created by title V of this act, the personnel authority is the Public Employee Relations

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Board and for all other employees of the Board, the personnel authority is the Executive Director of the Board;

(7) for the Chief Hearing Examiner of the Office of Employee Appeals created by title VI of this act, the personnel authority is the Office of Employee Appeals and for all other employees of the Office, the personnel authority is the Chief Hearing Examiner;

(8) for employees of the Office of District of Columbia Auditor (D.C. Code, sec. 47-120), the personnel authority is the Auditor of the District of Columbia;

(9) for employees of the District Columbia General Hospital (D.C. Law 1-134), the personnel authority is the District of Columbia General Hospital Commission;

(10) for employees of the District of Columbia Armory Board (D.C. Code, sec. 2-1702) the personnel authority is the Armory Board;

(11) for employees of the District of Columbia courts, the personnel authority is the Superior Court of the District of Columbia, the District of Columbia Court of Appeals, or the Administrative Officer of the District of Columbia Courts for employees under their respective jurisdictions; and

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(12) for employees of the District of Columbia Board of Library Trustees, the personnel authority is the Board of Library Trustees.

Sec. 407. Transfer of Personnel Functions

All positions and employees of the District who spent fifty percent (50%) or more of their regular duty hours on January 1, 1975, or at any time since that date performing personnel functions, are transferred to the Office of Personnel unless properly reclassified by the District of Columbia Office of Personnel, except as provided herein. The provisions of this section shall not apply to employees in positions within the independent agencies. All property and funds associated with those positions and employees transferred to the Office of Personnel are transferred thereto as provided in title XXXVI of this act unless prohibited by statute. Any employee found to be superfluous to the needs of the Office of Personnel shall be separated from his or her position in accordance with appropriate reduction-in-force procedures as provided in title XXIV of this act. The Mayor may authorize the reassignment of such employees as is appropriate.

Sec. 408. Oath of Office

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Each personnel authority of an agency of the District shall designate a person to administer the oath of office to each employee of that agency. The oath shall be as follows:

"I, (employee's name) do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office of which I am about to enter.".

TITLE V

PUBLIC EMPLOYEE RELATIONS BOARD

Sec. 501. Establishment of Board

(a) There is established a Public Employee Relations Board (hereinafter referred to in this title as the "Board") consisting of five (5) members, not otherwise in the employment of any labor organization granted exclusive recognition under this act or the District of Columbia government: EXCEPT, That members of the Board of Labor Relations established by Commissioners' Order 70-229, may be appointed to the Public Employee Relations Board. The

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members shall be appointed by the Mayor within sixty (60) days after the effective date of this subsection.

(b) The Mayor shall select members of the Board from persons who through their experience have demonstrated an expert knowledge of the field of labor relations and who possess the integrity and impartiality necessary to protect the public interest and the interests of the District of Columbia government and its employees. Every effort shall be made to select members who have experience in public sector labor relations and preference shall be given to such persons in the Mayor's appointments to the Board.

(c) The members of the Board shall be selected by the Mayor in the following manner:

(1) One (1) member shall be chosen from those persons whose names appear upon lists proposed by labor organizations each of which has been granted exclusive recognition for at least two hundred fifty (250) District government employees at the time that the Mayor is making his or her selection;

(2) One (1) member shall be chosen from a list of at least two (2) names proposed by an ad hoc committee

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appointed by the Mayor representing agency heads within the District government;

(3) Three (3) neutral members, of whom one (1) shall be designated by the Mayor as Chairperson, shall be public members.

(d) The term of office for each member is three (3) years: EXCEPT, That members first appointed to the Public Employee Relations Board shall serve the following terms: (1) two (2) members shall serve for one (1) year; (2) two (2) additional members shall serve for two (2) years; and (3) the chairperson shall serve a three (3) year term. The Mayor shall designate the term of each member at the time of his or her appointment.

(e) The Mayor may remove any member of the Board who engages in any activity prohibited by subsection (g) of this section or for repeated failures to attend Board meetings, and appoint a new member in accordance with the provisions of subsection (c) of this section to serve until the expiration of the term of the member so removed. When the Mayor believes that any member has engaged in any such activity, he or she shall initiate an action in the Superior Court of the District of Columbia in accordance with the provisions of section 145(n) of the District of Columbia

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Court Reform and Criminal Procedure Act (84 Stat. 562; D.C. Code, sec. 16-3521 et seq.) to remove such member.

(f) Any vacancy occurring in the Board shall be filled within forty-five (45) days after the occurrence of such vacancy excluding Saturdays, Sundays and legal holidays.

(g) A member of the Board who:

(1) violates the provisions of subsection (a) of this section; or

(2) engages in a conflict of interest in violation of the provisions of title XVIII of this act; or

(3) is convicted for an offense against the labor relations laws of the United States or of the District of Columbia, or for any other crime, which if committed in the District of Columbia would be a felony, which is by this or any other statute punishable by disqualification to hold office, in addition to the other punishment prescribed for such offenses, shall be removed from office as provided in this section.

(h) The procedure provided in subsection (c) of this section for filling a vacancy resulting from the expiration of a term of office shall be initiated at least thirty (30)

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days prior to the expiration. If a vacancy occurs during a term due to removal, resignation or death of a member, the new appointee's term of office shall be for the remainder of the unexpired term. Appointment procedures for such new appointees shall be those provided in subsection (c) of this section. No person shall serve for more than two (2) consecutive terms.

(i) If at any time any matter comes before the Board in which any member has any interest, directly or indirectly, other than as that of a taxpayer, the member shall publicly so state and this statement shall be recorded in the minutes of that meeting. The member thereafter is disqualified from participation in the consideration of said matter.

(j) Each member of the Board is entitled to compensation as provided in section 1112 of this act. Each member of the Board is expected to attend the regularly scheduled meetings of the Board. Thus a member may be removed by the Mayor, as provided in subsection (g) of this section, for repeated failures to attend such meetings, thereby hindering the work of the Board.

(k) The Board may appoint such employees as may be required to conduct its business. The Board is authorized to request such appropriations as may be necessary to carry

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out its functions. Each employee of the Board, except the Executive Director, is in the Career Service as defined in title VIII of this act.

(1) Three (3) members of the Board shall constitute a quorum for the transaction of business.

Sec. 502. Powers of the Board

The Board shall have the power to do the following:

(a) resolve unit determination questions and other representation issues (including but not limited to disputes concerning the majority status of a labor organization);

(b) certify and decertify exclusive bargaining representatives;

(c) decide whether unfair labor practices have been committed and issue an appropriate remedial order;

(d) resolve bargaining impasses through fact finding, final and binding arbitration or other methods agreed upon by the parties as approved by the Board and to remand disputes if it believes further negotiations are desirable. Arbitration shall not be conducted by the Board itself, but the Board shall provide arbitrators selected at random from

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a panel or list of arbitrators maintained by the Board and consisting of persons agreed upon by labor and management;

(e) make a determination in disputed cases as to whether a matter is within the scope of collective bargaining;

(f) consider appeals from arbitration awards pursuant to a grievance procedure: PROVIDED, HOWEVER, That such awards may be reviewed only if the arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means: PROVIDED, FURTHER, That the provisions of this subsection shall be the exclusive method for reviewing the decision of an arbitrator concerning a matter properly subject to the jurisdiction of the Board, notwithstanding any provisions of the District of Columbia Uniform Arbitration Act (D.C. Law 1-117; D.C. Code, Appendix, Title 15);

(g) conduct investigations, hear testimony and take evidence under oath at hearings on any matter subject to its jurisdiction;

(h) administer oaths or affirmations and through the power of subpoena, require the attendance of witnesses with any necessary records or other information which have a

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bearing on the dispute, without however, abrogating rules and regulations abridging the confidentiality of personnel files as provided in title XXXI of this act;

(i) make decisions and take appropriate action on charges of failure to adopt, subscribe or comply with the internal or national labor organization standards of conduct for labor organizations;

(j) make recommendations concerning desirable revisions or amendments to the District government labor relations law;

(k) adopt rules and regulations for the conduct of its business and the carrying out of its powers and duties;

(l) the Board may hear any matter brought to it under this act by a three (3) member panel. An appeal from a decision of any such three (3) member panel may be taken to either the full Board or the Superior Court of the District of Columbia at the option of any adversely affected party, and if not taken within one hundred twenty (120) days the decision shall be final. If an appeal is taken directly to the Superior Court of the District of Columbia, the decision of a three (3) member panel, for purposes of such appeal, shall be considered as the final decision of the Board. If

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an appeal is taken from a decision of a three (3) member panel to the full Board, the decision of the three (3) member panel shall be stayed pending a final decision of the Board. Upon a vote of the majority of its members, the Board may hear de novo all issues of fact or law relating to an appeal of a decision of the three (3) member panel, except the Board may decide to consider only the record made before such three (3) member panel. A final decision of the full Board, relating to an appeal brought to it from a three (3) member panel, shall be appealable to the Superior Court of the District of Columbia. Upon reviewing the final decision of the Board, the court shall determine if it is supported by substantial evidence and not clearly erroneous as a matter of law;

(m) establish and maintain a list of qualified mediators, factfinders and arbitrators after consulting with employee organizations and management representatives, and appoint them;

(n) retain independent legal counsel to assist in Board activities when the District government is a party to the Board's proceedings or in any other situation as the Board deems appropriate;

(o) develop a system for the collection, maintenance and dissemination of labor management-relations information as appropriate to the needs of the District, labor organizations and the public; and

(p) seek appropriate judicial process to enforce its orders and otherwise carry out its authority under this act. In cases of contumacy by any party or other delay or impediment of any character, the Board may seek any and all such judicial process or relief as the it deems necessary, to enforce and otherwise carry out its powers, duties and authority under this act.

Sec. 503. Transfer of Property and Personnel

(a) The property and facilities of the Board of Labor Relations, established pursuant to Commissioner's Order 70-229, shall be transferred to the Public Employee Relations Board as provided in title XXXVI of this act.

(b) The personnel and positions assigned to the Board of Labor Relations shall be transferred to the Public Employee Relations Board as provided in title XXXVI of this act:  
PROVIDED, HOWEVER, That incumbents of positions considered surplus to the needs of the Public Employee Relations Board

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may be separated in accordance with the provisions of title XXIV of this act.

Sec. 504. Publication of Decisions

The Board shall cause a copy of each order, decision or opinion rendered by it to be published in the District of Columbia Register within sixty (60) days of its issuance.

TITLE VI

OFFICE OF EMPLOYEE APPEALS

Sec. 501. Establishment of the Office of Employee Appeals

(a) There is established an Office of Employee Appeals (hereinafter referred to in this title as the "Office"). The Office shall be composed of five (5) members to be appointed by the Mayor in accordance with the provisions of subsection (b) of this section within sixty (60) days of the date this act becomes effective as provided in section 3602 of this subsection. Members of the Office shall have demonstrated knowledge concerning personnel management or labor relations, and a reputation for impartiality and integrity in the discharge of their responsibilities. No member shall be eligible for reappointment.

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(b) The term of office of each member of the Office shall be six (6) years: EXCEPT, That (1) of those members first appointed, two (2) shall serve for two (2) years and three (3) shall serve for four (4) years respectively, from the date of appointment; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. No member may serve beyond the expiration of his or her term: PROVIDED, HOWEVER, That members serving terms of less than six (6) years, as appointed under the provision of paragraph (1) of this subsection, may be reappointed for a full six (6) year term. Appointments to fill vacancies shall be made in accordance with the provisions of subsection (a). The Mayor shall designate the term of each Member at the time of his or her appointment.

(c) The Chairperson of the Office shall be designated by the Mayor. The Chairperson shall be the chief executive and administrative officer of the Office.

(d) Three (3) members of the Office shall constitute a quorum for the transaction of official business and the issuance of rules and regulations. The Office may hear appeals brought before it under this title by a three (3)

member panel. An appeal from a decision of any such three (3) member panel may be taken either to the full Office or to the Superior Court of the District of Columbia at the option of any adversely affected party. If an appeal is taken directly to the Superior Court of the District of Columbia, the decision of a three (3) member panel, for the purposes of such appeal, shall be considered as the final decision of the Office. If an appeal is taken from a decision of a three (3) member panel to the full Office, the decision of the three (3) member panel shall be stayed pending a final decision of the Office. Upon a vote of a majority of its members, the Office may hear de novo all issues of fact or law relating to an appeal of a decision of the three (3) member panel, except the Office may decide to consider only the record made before such three (3) member panel. A final decision of the full Office, relating to an appeal brought to it from a three (3) member panel, shall be appealable to the Superior Court of the District of Columbia. Upon reviewing the final decision of the Office, the court shall determine if it is supported by substantial evidence.

(e) If at any time any matter comes before the Office in which any member has any interest, directly or indirectly, other than as that of a taxpayer, the member shall publicly

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so state and this statement shall be recorded in the minutes of that meeting. The member thereafter is disqualified from participation in the consideration of the matter under deliberation.

(F) Each member of the Office is entitled to compensation as provided in section 1108 of this act.

(g) The Office may appoint such employees and make such expenditures as are necessary to carry out its functions.

(h) The Office shall be considered an independent agency for budgetary and administrative purposes.

(i)(1) The Mayor may remove any member of the Office who engages in any activity prohibited by subsection (j) of this section, and appoint a new member to serve until the expiration of the term of the member so removed. When the Mayor believes that any member has engaged in any such activity he or she shall initiate an action, in the Superior Court of the District of Columbia in accordance with the provisions of section 145(n) of the District of Columbia Court Reform and Criminal Procedure Act (84 Stat. 562; D.C. Code, sec. 16-3521 et seq.), to remove such member.

(2) Any vacancy occurring in the Office shall be filled within forty-five (45) days after the occurrence of

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such vacancy excluding Saturdays, Sundays and legal holidays.

(3) The procedure provided for in subsections (a) and (b) of this section for filling a vacancy resulting from the expiration of a term of office shall be initiated at least thirty (30) days prior to the expiration. If a vacancy occurs during a term due to removal, resignation or death of a member, the new appointee's term of office is the remainder of the unexpired term. Appointment procedures for such new appointees shall be those provided in subsections (a) and (b) of this section.

(j) Any member of the Office who:

(1) violates the provisions of subsection (k) of this section; or

(2) engages in a conflict of interest in violation of the provisions of title XVIII of this act; or

(3) is convicted of a crime, which if committed in the District of Columbia would be a felony, which is by this or any other statute punishable by disqualification to hold office, in addition to the other punishment prescribed for such offense, shall be removed from office as provided in this section.

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(k) No member of the Office may hold any other position in the District government or any subordinate position in the Office.

Sec. 602. Duties of the Office

(a) The Office shall have, in addition to the authority necessary and proper for carrying out its duties as specified elsewhere in this title, the authority to:

(1) appoint and remove employees of the Office, subject to applicable provisions of this act;

(2) hear and adjudicate appeals received from District agencies and from employees as provided in this title;

(3) issue an annual report on the activities of the Office to the Mayor and Council which should include, at a minimum the following:

(A) the number and nature of cases heard by the Office, and the type of order issued in each case;

(B) the number of appeals heard by Office panels and the disposition of such appeal or type of order issued in each case;

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(C) the number of appeals taken to Superior Court of the District of Columbia (both directly and from Office panels) and the disposition of or status of each case; and

(D) a statement of the amount of time taken to reach a final disposition of each case brought before the Office and a statement of the number of backlogged cases, if any;

(4) compel the appearance of witnesses and production of documents by subpoena, enforceable by the Office in the Superior Court of the District of Columbia; and

(5) issue any rules and regulations necessary to carry out its duties under this act.

(d) Any performance rating, grievance, adverse action or reduction-in-force review which has been included within a collective bargaining agreement under the provisions of title XVII of this act, shall not be subject to the provisions of this title.

Sec. 603. Appeal Procedures

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(a) Any employee may appeal a final agency decision affecting a performance rating (pursuant to title XIV), an adverse action (pursuant to title XVI), a reduction-in-force (pursuant to title XXIV), resolving a grievance (pursuant to title XVI), affecting erroneous employee payments (pursuant to title XXIX), affecting privacy and records management (pursuant to title XXXI) or deciding the classification of a position (pursuant to sections 1102(c) and 1111(c) of this act) to the Office upon the record and under such other rules and regulations which the Office may issue.

(b) In any appeal taken pursuant to this section, the Office shall review the record and uphold, reverse or modify the decision of the agency. The Office may order oral argument, on its own motion or on motion filed by any party within fifteen (15) days, and provide such other procedures or rules and regulations as it deems practicable or desirable in any appeal under this section.

(c) All decisions of the Office shall include findings of fact and a written decision and order: PROVIDED, HOWEVER, That the Office may affirm a decision without findings of fact and a written decision. Such decisions shall be published in accordance with the rules and regulations of the Office, with information identifying the employee and

agency deleted, and shall be published in the District of Columbia Register.

(d) Any employee or agency may appeal the decision of the Office to the Superior Court of the District of Columbia for a review of the record and such court may affirm, reverse, remove or modify such decision, or take any other appropriate action the court may deem necessary.

Sec. 504. Agency Hearing Procedures

(a) Each agency shall establish internal rules and regulations not inconsistent with the procedures of this title, for conducting hearings affecting individual employees.

(b) Each agency shall provide for ten (10) days advance notice in writing prior to the taking of any action which adversely affects an employee: PROVIDED, HOWEVER, That this provision may be waived by the agency if the employee's conduct constitutes an immediate hazard to the agency, to other employees of the government, to the employee, or to the detriment of the public health, safety or welfare.

(c) Each agency shall provide that any employee against whom action is taken adversely affecting such employee shall

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have the right to prepare a written response to the notice provided in subsection (b) of this section;

(d) Each agency shall provide no less than one (1) internal review by a disinterested designee of the agency head of the proposed action to be taken and the employee's response thereto, and may provide for an adversary hearing and the confrontation of witnesses;

(e) Each agency shall advise each employee against whom action is taken adversely affecting the employee of his or her right to appeal to the Office as provided in this title; and

(f) Any employee may be represented by an attorney or an individual of his or her choice.

## TITLE VII

### EQUAL EMPLOYMENT OPPORTUNITY

#### Sec. 701. Affirmative Action

(a) The Council reaffirms its intent that the objectives of the Affirmative Action in District Government Employment Act, as amended (D.C. Law 1-63; D.C. Code, sec. 1-320a) be carried out.

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(b) Each agency shall make reasonable accommodations for the free exercise of religion by its employees, and may adjust work schedules unless such adjustment would result in a substantial disruption of District business.

Sec. 702. Special Provisions for the Physically Handicapped and the Developmentally Disabled

The Mayor may develop rules and regulations which authorize the inquiry into bona fide job-related qualifications which may affect persons with physical handicaps or developmental disabilities, prior to appointing such individuals under the authority of section 904(b) of this act. Physically handicapped or developmentally disabled persons who apply for positions under the authority of titles VIII and VIIIA may be examined to assure that their level of skills is sufficient to meet minimal job qualifications.

Sec. 703. Veterans Preference in Employment

(a) For appointment under the provisions of titles VIII and VIIIA, persons who have served on active duty in the Armed Forces of the United States for more than one hundred eighty (180) consecutive days, not including service under honorable conditions 511(d) of Title 10 of the United States

Code and have separated from the Armed Forces under honorable conditions may receive an additional five (5) points on any register established under the authority of titles VIII and VIIIA of this act.

(b) A person entitled to preference points as provided in subsection (a) of this section, shall receive an additional five (5) points if he or she has separated from the Armed Forces under honorable conditions, and has established the presence at the time of appointment of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public law administered by the Veterans Administration or a military department.

(c) Any employee of the District government who, on January 1, 1979, was entitled to veterans preference under federal law, shall continue to be entitled to such veterans preference under this act.

(d) The Mayor is authorized to develop procedures for the consideration of granting veterans preference, as provided in this section, to persons who served in the Armed Forces but were less than honorably discharged. Such persons may be entitled to the preference afforded by this section at the time of initial appointment if they show, to

the satisfaction of the Mayor, that they have been discriminated against in violation of those rights guaranteed in section 103b(5) and title VII of this act. No appeal shall be available to any person not afforded a veterans preference under the provisions of this subsection.

(e) For purposes of any appointment preference, no person shall receive any preference after five (5) years from the date of separation from active duty in the armed forces. A person classified as thirty percent (30%) or more disabled under subsection (b) of this section shall receive an appointment preference regardless of the date of separation from active duty in the armed forces.

(f) No person entering the armed forces of the United States after October 14, 1976, shall receive any preference unless the person served in the armed forces of the United States during time of war.

(g) No person retiring from the armed forces of the United States shall receive any preference.

Sec. 704. Statement of Purpose; Use and Validity of Selection Procedures

The Council believes that properly validated and standardized employee selection procedures can significantly contribute to the implementation of nondiscriminatory personnel policies, as required by this title. It is also

recognized that professionally developed tests, when used in conjunction with other tools of personnel assessment and complemented by sound programs of job design, may aid significantly in the development and maintenance of an efficient work force and in the utilization and conservation of human resources.

Sec. 705. Selection Procedure and Relationship to Discrimination

The selection procedures utilized shall be job related to minimize or eliminate discrimination.

Sec. 706. Evidence of Validity

(a) Each person utilizing a selection procedure in choosing among candidates for a position shall have available for inspection evidence that the procedure does not violate section 705 of this act. Such evidence shall be examined for indications of possible discrimination, such as instances of higher rejection rates for minority candidates than nonminority candidates.

(b) Evidence of selection procedure validity should consist of evidence demonstrating that the procedure is predictive of or significantly correlated with important

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elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated.

Sec. 707. Discrimination in Benefit Programs

No benefit program shall be denied to any District employee on account of sex.

Sec. 708. Specific Standards Authorized

Specific standards to carry out the purposes of this title shall be adopted by the Mayor.

TITLE VIII

CAREER SERVICE

Sec. 801. Creation of Career Service

(3) The Mayor shall issue rules and regulations governing employment, advancement and retention in the Career Service which shall include all persons appointed to positions in the District government, except persons appointed to positions in the Excepted, Executive or Educational Services. The Career Service shall also include, after January 1, 1980, all persons who are transferred into the Career Service pursuant to the provisions of subsection (c) of section 204 of this act.

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The rules and regulations governing Career Service employees shall be indexed and cross-referenced to the incumbent classification system and shall provide for the following:

(1) a positive recruitment program designed to meet current and projected personnel needs;

(2) open competition for initial appointment to the Career Service;

(3) examining procedures designed to achieve maximum objectivity, reliability and validity through a practical assessment of attributes necessary to successful job performance and career development as provided in title VII of this act;

(4) appointments to be made on the basis of merit by selection from the highest qualified available eligibles based on specific job requirements, from appropriate lists established on the basis of the provisions of paragraphs (1), (2) and (3) of this subsection with appropriate regard for affirmative action goals and veterans preference as provided in title VII of this act;

(5) appointments made without time limitation in accordance with paragraph (4) of this subsection, as

permanent Career Service status appointments upon satisfactory completion of a probationary period of at least one (1) year;

(6) temporary and other time-limited appointments, in appropriate cases, which do not confer permanent status but are to be made, insofar as practicable, in accordance with paragraph (4) of this subsection;

(7) appointments to continuing positions (in the absence of lists of eligibles), which do not confer permanent status, subject to meeting minimum qualification standards and subject to termination as soon as lists of qualified eligibles for permanent appointment can be established in accordance with paragraph (4) of this subsection;

(8) emergency appointments for not more than thirty (30) days to provide for maintenance of essential services in situations of natural disaster or catastrophes where normal employment procedures are impracticable;

(9) promotions of permanent employees, giving due consideration to demonstrated ability, quality and length of service;

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(10) reinstatements, reassessments and transfers of employees with permanent status;

(11) establishment of programs, including trainee programs, designed to attract and utilize persons with minimal qualifications, but with potential for development, in order to provide career development opportunities for members of disadvantaged groups, handicapped persons, women and other appropriate target groups. These programs may provide for permanent appointments to trainee or similar positions through competition limited to these persons;

(12) reduction-in-force procedures, with (A) a prescribed order of separation based on tenure of appointment, length of service, including creditable federal and military service, veterans preference and officially documented work performance; (B) priority reemployment consideration for employees separated; (C) consideration of job sharing and reduced hours; and (D) employee appeal rights; and

(13) separations for cause, which shall be subject to the adverse action and appeal procedures provided for in title XVI of this act.

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(b) Selections to the Career Service shall be made in accordance with equal employment opportunity principles as set forth in title VII of this act.

(c)(1) For the purpose of this subsection, "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

(2) A public official may not appoint, employ, promote, advance or advocate for appointment, employment, promotion or advancement, in or to a position in the agency in which he or she is serving or over which he or she exercises jurisdiction or control, any individual who is a relative of the public official. An individual may not be appointed, employed, promoted or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official who is serving in or exercising jurisdiction or control over the agency and is a relative of the individual.

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(3) A public official who appoints, employs, promotes or advances, or advocates such appointment, employment, promotion or advancement of any individual appointed in violation of this subsection shall reimburse the District for any such funds improperly paid to such individual.

(4) The Mayor may issue rules and regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this subsection.

(d) The Mayor may issue separate rules and regulations concerning the personnel system affecting members of the uniform services of the Police and Fire Departments which may provide for a probationary period of at least one (1) year. Other such separate rules and regulations may only be issued to carry out provisions of this act which accord such member of the uniform services of the Police and Fire Departments separate treatment under this act. Such separate rules and regulations are not a bar to collective bargaining during the negotiation process between the Mayor and the recognized labor organizations for the Metropolitan

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Police and Fire Departments, but shall be within the parameters of section 1708 of this act.

(e)(1) Notwithstanding any provision in section 101 of the Human Rights Act of 1977, (D.C. Law 2-38; D.C. Code, sec. 6-2201), after the date this act becomes effective as provided in section 3602 of this act, any person who applies for a position in the Career Service and who accepts appointment or is hired to fill a position in that Service shall become a bona fide resident of the District of Columbia within one hundred eighty (180) days of the effective date of such appointment, and shall maintain such residence for the duration of the employment. Failure to become a District resident, or to maintain District residency, shall result in forfeiture of the position to which the said person has been appointed.

(2) Within sixty (60) calendar days of the date that this act becomes effective, as provided in section 3602 of this act, the Mayor, the Board of Education and the Board of Trustees of the University of the District of Columbia in appropriate cases, shall submit to the Council rules and regulations which exempt specific classes or groups of Career Service employees whose employment may involve a transfer between District government agencies or facilities

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located within the physical boundaries of said District and District government agencies or facilities located without the physical boundaries of said District. Such rules and regulations shall be valid only if the Council does not adopt, within sixty (60) calendar days of the date of the Mayor's submission, a resolution disapproving such rules and regulations.

(3) The Mayor may submit to the Council at any time after the date that this act becomes effective according to the provisions of section 3602 of this act, rules and regulations which exempt specific classes or groups of Career Service employees other than those covered under the provisions of paragraph (3) this subsection. Whenever such rules and regulations are submitted, the Mayor shall set forth, in sufficient detail, the reasons for each recommended exemption and the number of employees affected thereby. Such rules and regulations shall be valid only if the Council does not adopt, within sixty (60) calendar days of the date of the Mayor's submission, a resolution disapproving such rules and regulations.

(4) The Mayor shall submit to the Council on July 1st of each year, a report which states the impact of the residency requirement contained in this section on the system of personnel administration established by this act.

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This report shall be published in the District of Columbia Register.

(5) Nothing in this section shall be construed to apply to persons employed by the District government on or before the date this act becomes effective, as provided in section 3602 of this act.

TITLE VIIIA

EDUCATIONAL SERVICE

Sec. 801A. Creation of the Educational Service

(a) For the purpose of this title, the term "Boards" means the District of Columbia Board of Education for educational employees of the Board of Education and the Board of Trustees of the University of the District of Columbia for educational employees of the University of the District of Columbia.

(b) The Boards shall issue rules and regulations governing employment, advancement, and retention in the Educational Service, which shall include all educational employees of the District of Columbia employed by the Boards. The rules and regulations shall be indexed and cross referenced as to the incumbent classification and compensation system.

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(1) University of the District of Columbia.

In keeping with the purpose of this act, the Board of Trustees of the University of the District of Columbia shall issue rules and regulations embodying principles of merit and equal employment governing, among others, appointment, promotion, retention, reassignment, professional development and training, classification, and salary administration (except as provided in section 203 of this act), employee benefits, reduction-in-force, adverse action, grievances and appeals, provided that such rules and regulations concerning adverse actions and regulations covering adverse actions and appeals shall be consistent with titles V, VI, VII, XVI and XVII of this act.

(2) The Board of Education.

The Board of Education shall issue rules and regulations which shall provide for the following:

(A) a positive recruitment program designed to meet current and projected personnel needs;

(B) open competition for initial appointment to the service;

(C) appointments procedures designed to achieve maximum objectivity, reliability and validity through a practical assessment of attributes necessary to

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successful job performance and career development as provided in title VII of this act;

(D) appointments to be made on the basis of merit by selection from the highest qualified available eligible persons based on specific job requirements, from appropriate lists or files established on the basis of the provisions of paragraphs (1), (2) and (3) of this subsection with appropriate regard for affirmative action goals and veterans preference as provided in title VII of this act;

(E) appointments made without time limitation in accordance with paragraph (4) of this subsection, as permanent Educational Service status appointments upon satisfactory completion of a probationary period of at least one (1) year;

(F) temporary and other time-limited appointments in appropriate cases which do not confer permanent status, but are to be made, insofar as practicable in accordance with paragraph (4) of this subsection;

(G) appointments to continuing positions (in the absence of lists of eligibles), which do not confer permanent status, subject to meeting minimum qualification standards and subject to termination as soon as lists of

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qualified eligibles for permanent appointment can be established in accordance with paragraph (4) of this subsection;

(H) emergency appointments for not more than thirty (30) days to provide for maintenance of essential services in situations of natural disaster or catastrophes where normal employment procedures are impracticable;

(I) promotion of permanent employees, giving due consideration to demonstrated ability, quality and length of service;

(J) reinstatements, reassignments and transfers of employees with permanent status;

(K) establishment of programs, including trainee programs, designed to attract and utilize persons with minimal qualifications, but with potential for development, in order to provide career development opportunities for members of disadvantaged groups, handicapped persons, women and other appropriate target groups. These programs may provide for permanent appointments to trainee or similar positions through competitive procedures established by the Boards;

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(L) reduction-in-force procedures, with (i) a prescribed order of separation based on tenure of appointment, length of service, including creditable federal and military service, veterans preference, and relative work performance; (ii) priority reemployment consideration for employees separated; (iii) consideration of job sharing and reduced hours; and (iv) employee appeal rights;

(M) separation for cause, which shall be subject to the adverse action and appeal procedures provided for in title XVI of this act; and

(N) selections to the Educational Service shall be made in accordance with equal employment opportunity principles as set forth in title VII of this act.

(c)(1) For the purpose of this subsection, "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

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(2) A public official who appoints, employs, promotes or advances, or advocated such appointment, employment, promotion or advancement of any individual in violation of this subsection shall reimburse the District for any funds improperly paid to such individual.

(3) The Boards may issue rules and regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this subsection.

(4) A public official may not appoint, employ, promote, advance or advocate for appointment, employment, promotion or advancement, in or to a position in the agency in which he or she is serving or over which he or she exercises jurisdiction or control, any individual who is a relative of the public official. An individual may not be appointed, employed, promoted or advanced in or to a position in an agency if such appointment, employment, promotion or advancement has been advocated by a public official who is serving in or exercising jurisdiction or control over the agency, and is a relative of the individual.

(d)(1) Notwithstanding any provision in section 101 of the Human Rights Act of 1977 (D.C. Law 2-38; D.C. Code, sec.

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6-2201), after the date this act becomes effective, as provided in section 3602 of this act, any person who applies for a position in the Educational Service and who accepts appointment or is hired to fill a position in the Education Service shall become a bona fide resident of the District of Columbia within one hundred eighty (180) days of the effective date of such appointment, and shall maintain such residence for the duration of the employment. Failure to become a District resident, or to maintain District residency, shall result in forfeiture of the position to which the said person has been appointed.

(2) Within sixty (60) calendar days of the date this act becomes effective, as provided in section 3602 of this act, the Boards shall submit to the Council rules and regulations which exempt specific classes or groups of Educational Service employees whose employment may involve a transfer between District government agencies or facilities located within the physical boundaries of said District and District government agencies or facilities located outside the physical boundaries of said District. Such rules and regulations shall be valid only if the Council does not adopt, within sixty (60) calendar days of the date of the Boards' submission, a resolution disapproving such rules and regulations.

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(3) The Boards may submit to the Council, at any time after the date this act becomes effective according to the provisions of section 3602 of this act, rules and regulations which exempt specific classes or groups of Educational Service employees other than those covered under the provisions of paragraph (3) of this subsection. Whenever such rules and regulations are submitted, the Boards shall set forth, in sufficient detail, the reasons for each recommended exemption and the number of employees affected thereby. Such rules and regulations shall be valid only if the Council does not adopt, within sixty (60) calendar days of the date of the Boards' submission, a resolution disapproving such rules and regulations.

(4) The Mayor shall submit to the Council, on July 1st of each year, a report which states the impact of the residency requirement contained in this section on the system of personnel administration established by this act. This report shall be published in the District of Columbia Register.

(5) Nothing in this section shall be construed to apply to persons employed by the District government on or before the date this act becomes effective, as provided in section 3602 of this act.

TITLE IX

EXCEPTED SERVICE

Sec. 901. Creation of the Excepted Service

The qualifications for each Excepted Service position shall be developed and issued by the appropriate personnel authority in consultation with the Mayor. Each employee appointed in the Excepted Service (except those included in section 908) must meet the minimum standards prescribed for the position to which he or she is appointed. Each personnel authority may fill positions in the Excepted Service as provided in this title. Excepted Service employees may be hired non-competitively. Persons appointed to the Excepted Service are not in the Career, Educational, or Executive Services.

Sec. 902. Nature of Positions in the Excepted Services and Conversion Rights

Each person holding an excepted appointment under the authority of sections 901, 902, or 903 is intended to be an individual whose primary duties are of a policy determining, confidential, or policy advocacy character and who reports directly to the head of an agency. No person holding excepted appointments may be given appointments in the Career Service for at least six (6) months following the

termination of his or her employment in the Excepted Service, unless such person is eligible for appointment under the authority of titles VIII or VIIIA or appointed under the authority of section 904(a) and (b) of this act.

Sec. 903. Number of Excepted Service Employees

(a) Under qualifications issued pursuant to section 901 of this act, each appropriate personnel authority may appoint persons to the Excepted Service as follows:

(1) The Mayor may appoint persons to serve as his or her personal staff, to be paid from funds appropriated for the Office of the Mayor;

(2) The Mayor may appoint persons to one hundred (100) positions, which may be allotted at the Mayor's discretion, among subordinate agencies of the District;

(3) All employees of the Council of the District of Columbia, except those permanent technical and clerical employees appointed by the Secretary, General Counsel or Legislative Counsel;

(4) The District of Columbia Board of Education may appoint 25 persons;

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(5) The Board of Trustees of the University of the District of Columbia may appoint Officers of the University, persons who report directly to the President, persons who head major units of the University, academic administrators and persons in a confidential relationship to the foregoing, exclusive of those listed in the definition of the Educational Service.

(6) The District of Columbia General Hospital Commission may appoint ten (10) persons;

(7) Each other personnel authority not expressly designated above may appoint two (2) persons.

(b) The authority to appoint persons to the Excepted Service, which is vested in subsection (a) of this section, may be redelegated, in whole or in part.

(c) Each personnel authority vested with authority in subsection (a) of this section shall publish in the District of Columbia Register within fifteen (15) days of the date this act becomes law as provided in section 3601 of this act, a list of all positions to be filled by Excepted Service appointments under the authority of this section. Such notice shall also include a complete statement of position qualifications, standards and the proposed salary

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range for each position. Within forty-five (45) days of actual appointment, the names of all persons appointed to Excepted Service positions under the authority of this section shall be published in the District of Columbia Register. Thereafter, any changes in such appointments shall be published in the District of Columbia Register within forty-five (45) days after the actual change in appointment.

**Sec. 904. Special Appointments**

Special non-competitive appointments may be made to positions provided under the authority of this section. Such positions are covered by the provisions of section 902 relating to the Excepted Service positions. The nature of the appointment must be made known to the employee prior to effecting the appointment.

(a) Individuals appointed to positions created under public employment programs established by law;

(b) Positions established under special employment programs of a transitional nature designed to provide training or job opportunities for rehabilitation purposes, including developmentally disabled or handicapped persons, ex-offender or other disadvantaged groups;

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(c) Positions filled by the appointment of a federal employee under the mobility provisions of the Inter-governmental Personnel Act of 1970 (84 Stat. 1901);

(d) Positions established under federal grant funded programs having a limited or indefinite duration, provided State Merit requirements are not applicable: PROVIDED. HOWEVER, That this subsection shall not apply to any employees of the Board of Education or of the Trustees of the University of the District of Columbia;

(e) Positions established to employ professional, scientific or technical experts or consultants; or

(f) Positions established under a cooperative educational and study programs.

Sec. 905. Lack of Job Protection; Procedural Protection

Employees in the Excepted Service (other than those appointed under the authority of section 904) do not have any job tenure or protection. After one (1) year of average or above average performance as determined under title XIV of this act, persons appointed under the authority of this title shall be entitled to a notice of at least fifteen (15) days when termination of service prior to the expiration date of appointment is contemplated, explaining the reason

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therefor. The employee does not have any right to appeal the termination. All other provisions of this act apply to Excepted Service employees.

Sec. 906. Residency

The provisions subsection (e) of section 801 of this act shall apply to all employees in the Excepted Service: PROVIDED, HOWEVER, That such provisions shall not be construed to apply to persons employed by the District government on or before the date that this act becomes effective as provided in section 3602 of this act.

Sec. 907. Transitional Provisions

Persons holding non-temporary appointments in the District of Columbia government, paid from appropriations made to the Office of the Mayor, may on January 2, 1979 be reassigned to other offices or agencies of the District government. Persons holding appointments in the District of Columbia government, paid from appropriations made to the Council of the District of Columbia and classified as a GS-10 or less under section 5332 of Title 5 of the United States Code and whose position would not be in the Excepted Service under the provisions of this title on January 1, 1980 shall be appointed to the Career Service created in

title VIII of this act, if such incumbent is found to possess the minimal qualifications for the position to which he or she is appointed.

Sec. 908. Statutory Office Holders

The following employees of the District shall be deemed to be in the Excepted Service. Their terms of office shall be at the pleasure of the appointing authority, or as provided by statute for a term of years, subject to removal for cause as may be provided in their appointing statute:

- (a) City Administrator;
- (b) General Counsel to the District of Columbia Board of Elections and Ethics;
- (c) The Director of Campaign Finance, District of Columbia Board of Elections and Ethics;
- (d) People's Counsel of the District of Columbia;
- (e) Auditor of the District of Columbia;
- (f) The Chairman and Members of the Public Service Commission;
- (g) The Chairman and Members of the Board of Parole;

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(h) Executive Director of the Public Employee Relations Board;

(i) Secretary to the Council;

(j) General Counsel to the Council;

(k) Legislative Counsel to the Council; and

(l) Chief Hearing Examiner of the Office of Employee Appeals.

SEE  
AMENDMENT — SEC. 909 re: ATTORNEYS  
TITLE X

#### EXECUTIVE SERVICE

##### Sec. 1001. Creation of Executive Service

(a) An Executive Service is established within the District Government to ensure that each subordinate agency head is of the highest quality and is responsive to the needs of the District of Columbia. A person who is in the Executive Service is not in the Career, Educational, or Excepted Services. The Executive Service shall be administered to do the following:

(1) attract, recruit and provide for the selection of the best executive talent available and to encourage continuity of service;

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(2) assist the Mayor in establishing the pay as provided in title XI of this act and duty assignments of the executives under his or her direction as will best advance the program responsibilities of the District; and

(3) make effective a separate system for the filling of executive positions, with practices and procedures which are expressly attuned to the development and utilization of executive leadership.

(b) The Mayor shall appoint the head of each subordinate agency.

(c) The head of each subordinate agency shall serve at the pleasure of the Mayor.

(d) No person holding a position in the Executive Service may be appointed to a position in the Career or Educational Services for at least one (1) year immediately following his or her termination in the Executive Service: PROVIDED, HOWEVER, That upon such termination a person with Career or Educational Service status may retreat within (3) three months to a vacant position in such service for which he or she is qualified.

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(e) The provisions of subsection (e) of section 801 of this act shall apply to all persons appointed in the Executive Service.

Sec. 1002. Incumbents

Each incumbent subordinate agency head on the date this section becomes effective, as provided in subsection (a) of section 3602 of this act, is entitled to continue service with the District government at the same salary and benefits as he or she currently receives and without regard to the provisions of subsection (e) of section 801 of this act: PROVIDED, HOWEVER, That no such person is entitled to remain a subordinate agency head unless specifically appointed by the Mayor in accordance with this title.

TITLE XI

CLASSIFICATION AND COMPENSATION

Sec. 1101. Classification Policy

(a) The classification of all positions in the Career, Educational and the Excepted Services, will be accomplished in accordance with the following policy:

(1) Individual positions will be grouped and identified by classes and grades, in accordance with their

duties, responsibilities and qualification requirements and shall be indexed and cross referenced in the incumbent classification and compensation system; and

(2) The principle of equal pay for substantially equal work will be supported.

(b) The grade levels of all positions in the Career, Educational and Excepted Services shall be based on the consideration of applicable factors such as knowledge and skills required by the positions; supervisory controls exercised over the work; guidelines used; complexity of the work; scope and effect of the work; personal contacts; purpose of contacts; physical demands of the positions; and work environment.

(c) Classification systems or proposals developed under the authority of this title shall be published in the District of Columbia Register at least sixty (60) days prior to their proposed effective date. The Mayor or the Board of Education or the Board of Trustees of the University of the District of Columbia shall hold, as provided in this title, a public hearing on all such proposals he, she or it has published in the District of Columbia Register prior to his, her or its adoption of a classification system or amendment to such system.

Sec. 1102. Establishment and Maintenance of  
Classification System for Career and Excepted Services  
Employees

(a) In order to carry out the policies of section 1101 of this act, the Mayor shall provide for the development of a classification system covering all positions in the Career and the Excepted Services.

(b) The Mayor shall provide that all positions covered by this classification system are properly described in writing in accordance with the principal duties and responsibilities officially assigned to those positions and shall provide that all positions are properly evaluated by application of official classification standards, in accordance with accepted classification principles and techniques and in accordance with applicable rules and regulations. The Mayor shall provide for meaningful consultation with the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia in the classification of positions of persons in the Career Service employed by the educational boards.

(c) The Mayor shall provide that employees whose positions are covered in this classification system have the

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right to appeal the classification of their positions without restraint or fear of reprisal or prejudice as provided in title VI of this act to the Office of Employee Appeals.

(d) Classification systems or proposals developed under the authority of this section shall be published in the District of Columbia Register at least sixty (60) days prior to their proposed effective date. The Mayor shall hold a public hearing on all such proposals he or she publishes in the District of Columbia Register prior to his or her adoption of a classification system(s) or amendment to such system(s).

Sec. 1103. Compensation Policy

(a) Compensation for all employees in the Career, Educational and the Excepted Services shall be fixed in accordance with the following policy:

(1) compensation, including rates of pay, retirement benefits, leave provisions and other elements of the fringe benefit package shall be competitive with that provided other public and private sector employees having comparable duties, responsibilities, qualifications and working conditions by occupational groups. For the purposes

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of this subsection, compensation shall be deemed to be competitive if, in total, it falls reasonably within the range of compensation prevailing in the Washington Standard Metropolitan Statistical Area, including the federal government, area state and local governments, private employers and compensation plans of cities with populations comparable to the District of Columbia: PROVIDED, HOWEVER, That compensation levels may be examined for public and/or private employees outside the area when necessary to establish a reasonably representative statistical basis for compensation comparisons, or when conditions in the local labor market require a larger sampling of prevailing compensation levels;

(2) pay for the various occupations and groups of employees shall be to the maximum extent practicable, interrelated and equal for substantially equal work;

(3) differences in pay shall be maintained in keeping with differences in level of work and quality of performance; and

(4) no employee may be paid a rate of basic pay in excess of the rate of pay for the Mayor.

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(b) The pay of an individual receiving an annuity under any federal or District government civilian retirement system, or any retirement system of the uniformed services of the United States, selected for employment in the District government on or after the effective date of this act, shall be reduced by the amount of annuity allocable to the period of employment as a reemployed annuitant.

Sec. 1104. Establishment of a Basic Compensation System for Career and Excepted Services Employees

(a)(1) In order to carry out the compensation policies of this act, the Mayor shall develop, in consultation with the Board of Education and the Board of Trustees of the University of the District of Columbia, a single pay system for all employees in the Career and the Excepted Service.

(2) The consultations with the Board of Education and with the Board of Trustees of the University of the District of Columbia shall commence no less than sixty (60) days prior to submission of the proposed pay system to the Council. Any comments that either the Board of Education or the Board of Trustees of the University of the District of Columbia wish to make on the proposed system shall be presented along with the proposed pay system submitted by the Mayor.

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(b) This comprehensive system shall include, but need not be limited to, provisions for basic pay, pay increases based on quality and length of service, premium pay, allowances and severance pay.

(c) The Mayor shall provide for appropriate consultations with employee organizations in the development of the comprehensive compensation system for Career Service employees.

(d) The Mayor shall submit, not later than September 1, 1979, the proposed comprehensive compensation system developed under this section to the Council for approval under provisions of section 1105 of this act.

Sec. 1105. Maintenance of the Comprehensive Compensation System for Career and Excepted Services Employees

(a) The Mayor, in consultation with the Board of Education and the Board of Trustees of the University of the District of Columbia shall provide for a periodic review of the basic compensation system, in order to improve the system and provide continuing conformity with the policy established by section 1103 of this title.

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(b) These reviews of compensation shall include, but need not be limited to, review of the adequacy of the rates of basic pay.

(c) The Mayor shall provide for appropriate consultations with employee organizations of employees under his or her jurisdiction in the periodic reviews of the compensation system(s).

(d) The Mayor shall consider, on an annual basis, changes in the comprehensive compensation system(s) and in the rates of pay under the system(s), and submit these changes and adjustments to the Council in accordance with the provisions of section 1104 of this act.

(e) Beginning on April 1, 1980, and on April 1st thereafter, the Mayor shall confer with the Board of Education and Board of Trustees of the University of the District of Columbia concerning proposed pay changes and adjustments and other proposed changes to the compensation system for approval under the provisions of section 1106 of this act. Any such proposed changes, along with any comments of the Board of Education and the Board of Trustees of the University of the District of Columbia shall be submitted to the Council no later than July 1, 1980, and July 1st of each year thereafter.

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(f) Notwithstanding any other provision of law, any pay or compensation system or revision thereof submitted to the Council which provides for classification or pay based on longevity, shall include an analysis of longevity and pay prepared by the submitting authority. Such analysis shall contain, but not be limited to, the following: (1) the potential average earnings of typical entry level employees over typical projected careers leading to retirement; (2) typical career ladders, and their pay implications over those periods of time to complete the ladder to retirement. (3) the effect on the District of Columbia's future financial obligations of proposed plans or revisions thereof with respect to the treatment of longevity; and (4) a comparison with similar costs for the above items as contained within the system to be abandoned or modified by the proposal.

Sec. 1106. Review by the Council of the District of Columbia

(a) If the Council approves, without revision, the comprehensive compensation system(s), or any later changes in that system(s) or in the rates of pay under the system(s) proposed in accordance with section 1104 or section 1105 of this title, the pay rates shall become effective on the

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first day of the first pay period beginning on or after October 1st in the year in which the Mayor submits his or her pay changes as provided in subsection (e) of section 1105 of this title.

(b) If the Council revises the proposal, it shall return the proposal with its revisions, to the Mayor. If the Mayor concurs in the revisions, the provisions of the compensation plan as revised shall become effective on the first day of the first pay period beginning on or after October 1st, as provided in subsection (a) of this section.

(c) If the Mayor does not concur in any one or more of the revisions recommended by the Council, he or she shall return the revisions within ten (10) days to the Council, appending a statement of the reasons for not concurring. If the Council, by a two-thirds (2/3) vote of its members present and voting, insists upon any one or more of its original revisions, it shall return the proposal and the revisions upon which it insists to the Mayor within ten (10) days after reception from the Mayor. If revisions insisted upon by the Council include increases in the rate of pay different from those suggested by the Mayor, then the Council shall identify by act the source of funding for those pay increases insisted upon. The pay provisions of

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the compensation plan so adopted, shall become effective on the first day of the first pay period beginning on or after the fiscal year beginning October 1st. If such a two-thirds (2/3) vote does not prevail, or the Council does not act on the proposal within ten (10) days of its reception of the Mayor's proposal, the formal proposal of the Mayor, including those revisions proposed by the Council to which the Mayor has concurred, shall become effective on the first day of the first full pay period beginning on or after the fiscal year which begins October 1st.

Sec. 1107. Executive Pay Plan

(a) It is the intent of the District government to attract and retain the best available talent to fill subordinate agency head positions. To further this end, the Mayor may establish and maintain an executive pay plan.

(b) This section is applicable to any employee in the Executive Service.

(c) Rates of pay for persons in the Executive Service shall not exceed the rate of pay for the Mayor.

(d) The Mayor is authorized to issue rules and regulations to implement this section. Rates of pay for each position shall be set to reflect the nature of the

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duties and responsibilities of the job and the qualifications usually expected for similar work. The pay plan and rates of pay set under this section shall be published in the District of Columbia Register for the purposes of notice only and submitted to the Council for its consideration. The failure of the Council to disapprove any such rate of pay by resolution within sixty (60) calendar days of its receipt from the Mayor, shall result in its adoption.

(a) The Mayor shall review, at least once each year, the rates of pay established under this section and make any necessary changes and adjustments to established rates. In proposing new pay rates, the Mayor is encouraged to consult with appropriate federal, state and local government officials, and representatives of private industry. Any annual adjustment shall be made in accordance with the provisions of subsection (d) of this section.

Sec. 1108. Compensation for Members of Boards and Commissions

(a) The rate of pay for each member of any board or commission who receives compensation on January 1, 1980, except as otherwise provided in this act and in sections 1110 or 1112 of this act, is one hundred twenty-five dollars

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(\$125) per diem or fifteen dollars and sixty-two cents (\$15.62) per hour, whichever provides less. This provision does not affect any annual ceiling established by law on January 1, 1980, and shall apply to all members of boards and commissions appointed before or after the effective date of this act. Should a member serve in excess of eight (8) hours on a particular day, such member may be paid additional compensation for such period of service, to a maximum of two (2) per diem payments for any consecutive twenty-four (24) hour period.

(b) Beginning with the year commencing January 1, 1983, and every four (4) years thereafter, the Mayor shall submit to the Council by no later than July 1st of each year all proposed pay changes and adjustments to this compensation system in the form of a proposed act.

Sec. 1109. Compensation for the Mayor and Members of the Council

(a) The Mayor shall receive compensation in the amount of sixty thousand dollars (\$60,000) per year, which shall be made in equal and periodic installments.

(b) Each Member of the Council shall receive compensation in the amount of thirty-five thousand dollars

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(\$35,000) per year, which shall be made in equal and periodic installments. The Chairman of the Council shall receive an additional ten thousand dollars (\$10,000) per year.

(c) The compensation amounts in subsections (a) and (b) of this section shall be adjusted on the first day of the first pay period beginning on or after October 1st of each year by the percent change, adjusted to the nearest one-tenth (1/10) of one (1) per centum, in the price index published for July of the preceding year over the price index published for July of the current year: PROVIDED, HOWEVER, That any adjustment authorized under this subsection shall not exceed the average percentage salary adjustment authorized by the Council of the District of Columbia for the Career Service of the District of Columbia.

(1) The compensation amounts after adjustment under this subsection shall be fixed at the nearest five (5) dollars: EXCEPT, That such compensation amounts shall reflect, after adjustment an increase of at least five dollars (\$5.00).

(2) For purpose of this subsection, the term "Price Index" shall mean the Consumer Price Index for All Urban Consumers (all items Washington, D.C. Standard Metropolitan

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Statistical Area average), published bi-monthly by the Bureau of Labor Statistics, United States Department of Labor in its official publication, Monthly Labor Review or in other official publications.

(3) On or before October 1st of each year the Mayor shall publish the adjusted compensation amounts under this subsection in the District of Columbia Register.

Sec. 1110. Compensation for Members of the Board of Education

The rate of pay for each member of the District of Columbia Board of Education is fifty (50) percent of the established rate of pay for each member of the Council. The President of the Board of Education shall receive an additional twenty-five hundred dollars (\$2,500) a year.

Sec. 1111. Classification and Compensation Policies and Procedures for Educational Employees

(a) The classification of all positions in the Educational Service shall be in accordance with the policies of section 1101 of this act.

(b) In order to carry out the policies of subsection (a) of this section, the District of Columbia Board of Education

shall, for educational employees of the District of Columbia Board of Education, and the Board of Trustees of the University of the District of Columbia shall, for educational employees of the University of the District of Columbia, provide for the development of a classification system covering all positions. The respective Boards shall provide that all positions covered by this classification system are properly evaluated by application of official classification standards, in accordance with accepted classification principles and techniques and in accordance with applicable rules and regulations. Classification systems or proposals developed under the authority of this section shall be published in the District of Columbia Register at least sixty (60) calendar days prior to their proposed effective date. Each Board shall hold a public hearing on all such proposals it publishes in the District of Columbia Register prior to its adoption of a classification system or amendment to such system.

(c) Each Board shall provide that employees whose positions are covered in this classification system have the right to appeal the classification of their positions without restraint or fear or reprisal or prejudice as provided in title VI of this act to the Office of Employee Appeals.

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(d) Compensation for all employees in the educational service shall be fixed in accordance with the policies of section 1103(a)(1), (2), (3) and (4) of this title.

(e) The comprehensive compensation system authorized by subsection (d) of this section shall include, but not be limited to, provisions for basic pay, pay increases based on quality of and length of service, premium pay, allowances and severance pay.

(f) Each Board shall provide for appropriate consultations with employee organizations in the development of the comprehensive compensation system.

(g) Each Board shall submit, to the Mayor, not later than September 1, 1979, the proposed comprehensive compensation system developed under the provisions of subsections (d) and (e) of this section. Within twenty (20) days of the submission of the compensation proposal by the respective Boards to the Mayor, the Mayor shall transmit the compensation system to the Council in the form of a proposed act. The Mayor shall append a statement of his or her proposed adjustments to the comprehensive compensation systems as submitted by each Board including detailed reasons for his or her support or opposition.

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(h) The Council shall consider the proposed compensation system in accordance with its procedures.

(i)(1) Each Board shall provide for the periodic review of the basic compensation system, in order to improve the system and provide continuing conformity with the policy established by subsection (a) of this section.

(2) These reviews of compensation shall include, but need not be limited to a review of the adequacy of the rates of basic pay.

(3) Each Board shall provide for appropriate consultations with employee organizations of employees under their respective jurisdiction in the periodic reviews of the compensation system.

(4) Each Board shall consider, on an annual basis, changes in the comprehensive compensation system, and in the rates of pay under the system, and submit these changes and adjustments to the Council in accordance with the provisions of this section.

(5) Beginning with the year commencing January 1, 1980, each Board shall submit to the Council by no later than July 1st of each year all proposed pay changes and

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adjustments and other proposed changes to the compensation system for approval under the provisions of this section.

Sec. 1112. Compensation for Members of the Public Employee Relations Board

(a) Notwithstanding any other provision of this title, members of the Public Employee Relations Board shall receive compensation at the rate of two hundred fifty dollars (\$250) per day, or thirty-one dollars and twenty-five cents (\$31.25) per hour, whichever is less, while in the service of the said Board. Should a member serve in excess of eight (8) hours on a particular day, such member may be paid additional compensation for such period of service, to a maximum of two (2) per diem payments for any consecutive twenty-four (24) hour period.

(b) During the transition period, as provided in section 3602(c)(1), (2) and (3), a person serving on both the Board of Labor Relations and the Public Employee Relations Board, shall receive compensation as provided in section 1112(a) of this act.

(c) Beginning with the year commencing January 1, 1983, and every four (4) years thereafter, the Mayor shall submit to the Council by no later than July 1st of each such year

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all proposed pay changes and adjustments to this compensation system in the form of a proposed act.

Sec. 1113. Collective Bargaining Concerning Compensation

Collective bargaining concerning compensation is authorized as provided in sections 206 and 1716 of this act. Such compensation bargaining shall preempt other provisions of title XI of this act except as provided in this section. The principles of section 1103 of this title shall apply to compensation set under the provisions of this section.

(a) As provided in this section, the Mayor, the Board of Education, the Board of Trustees of the University of the District of Columbia, and each independent personnel authority, or any combination of the above (hereinafter referred to in this section as "management") shall meet with labor organization(s) (hereinafter referred to in this section as "labor") which has (have) been authorized to negotiate compensation at reasonable times in advance of the District's budget-making process to negotiate in good faith with respect to salary, wages, health benefits, within-grade increases, overtime pay, education pay, shift differential, premium pay, hours and any other compensation matters.

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(b) No earlier than one hundred and fifty (150) days before the expiration of any existing negotiated agreement between the parties, management shall begin a thorough study of the compensation being paid to comparable occupational groups of employees in other jurisdictions in the Washington Standard Metropolitan Statistical Area and the nation's thirty largest cities by population. The Annual Study may include hours of work, health benefits and vacation time. The Annual Study shall also include the current percentage change in the Consumer Price Index for the Washington Metropolitan Area published by the Bureau of Labor Statistics, United States Department of Labor.

(c)(1) Management shall establish a Personnel Salary and Benefits Study Committee whose sole function shall be to conduct such Annual Study. The size of the Committee shall not exceed eight (8) members, equally divided among representatives appointed by management and those selected by labor.

(2) The Chairperson of the Personnel Salary and Benefits Study Committee shall be chosen by the members of the Committee, and shall not be an employee of the District of Columbia government or a member or employee of a labor organization on the Committee. If the Committee has not

chosen a Chairperson after its first meeting, then the Chairperson shall be chosen expeditiously by the Executive Director of the Public Employee Relations Board, before the second meeting. The Chairperson of the Study Committee shall receive compensation at the maximum daily rate allowable by law for each day he or she is actually engaged in performing services under this section.

(d)(1) No earlier than ninety (90) days before the expiration of any existing negotiated agreement between the parties, the results of the Annual Study shall be made public and shall be available to the parties involved in negotiations.

(2) The results of the Annual Study may be updated at any time by any party to the negotiation. Such updates shall constitute supplements to the Annual Study and shall be made public and utilized in the same manner as the Annual Study pursuant to subsection (d)(1) of this section.

(e)(1) Negotiations among the parties to existing contracts shall begin on the earliest possible date following the publication of the annual study as is mutually agreeable, but in no event shall negotiations commence later than ninety (90) days before the expiration of said contracts, except when multi-year agreements are in effect.

The failure of any party to begin negotiations within the ninety (90) day period, without the express written consent of all parties shall constitute an automatic impasse. Any party may notify the Executive Director of the Public Employee Relations Board in writing of this automatic impasse. The Executive Director shall assist in the resolution of this automatic impasse by selecting an impartial person experienced in public sector disputes to serve as a mediator. If the mediator does not resolve the automatic impasse within thirty (30) days, or any shorter period designated by the mediator, the Executive Director shall then appoint an impartial Board of Arbitration to investigate the labor-management issues involved in the dispute, conduct whatever hearings it deems necessary, and issue a written award to the parties with the object of achieving a prompt and fair settlement of the dispute. The award shall be issued within twenty (20) days after the Board has been established. The award shall contain findings of fact and a statement of reasons. The award shall be final and binding upon the parties in the dispute.

(2) Negotiations shall continue among the parties until a settlement is reached or until one hundred and eighty (180) days after negotiations have commenced. If the parties have failed to reach settlement on any issues by the

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one hundred and eightieth (180th) day, then an automatic impasse may be declared by any party. The declaring party shall promptly notify the Executive Director of the Public Employee Relations Board in writing of an impasse. The Executive Director shall assist in the resolution of this declared automatic impasse by selecting an impartial person experienced in public sector disputes to serve as a mediator. If the mediator does not resolve the declared automatic impasse within thirty (30) days, or any shorter period designated by the mediator, or before the automatic impasse date, the Executive Director, upon the request of any party, shall appoint an impartial Board of Arbitration to investigate the labor-management issues involved in the dispute, conduct whatever hearing it deems necessary, and issue a written award to the parties with the object of achieving a prompt and fair settlement of the dispute. The last best offer of each party shall be the basis for such automatic impasse arbitration. The award shall be issued within twenty (20) days after the Board has been established. The award shall contain findings of fact and a statement of reasons. The award shall be final and binding upon the parties to the dispute.

(3) If the parties reach an impasse on any issues in negotiations before the declared automatic impasse date,

any party shall promptly notify the Executive Director of the Public Employee Relations Board in writing. The Executive Director shall assist in the resolution of this impasse by selecting an impartial person experienced in public sector disputes to serve as a mediator. If the mediator does not resolve the impasse within thirty (30) days, or any shorter period designated by the mediator, or before the automatic impasse date, the Executive Director, upon the request of any party, shall appoint an impartial Board of Arbitration to investigate the labor-management issues involved in the dispute, conduct whatever hearing it deems necessary and issue a written award to the parties with the object of achieving a prompt and fair settlement of the dispute. The last best offer of each party shall be the basis for this impasse arbitration. The award shall be issued within twenty (20) days after the Board has been established. The award shall contain findings of fact and a statement of reasons. The award shall be final and binding upon the parties to the dispute.

(4) If the procedures set forth in paragraphs (1), (2) or (3) of this subsection are implemented, no change in the status quo shall be made pending the completion of mediation and arbitration, or both.

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(5) The factfinder, mediator and any members of the Board of Arbitration appointed by the Executive Director of the Public Employee Relations Board shall be entitled to compensation at the maximum daily rate allowable by law for each day they are actually engaged in performing services under this section. Compensation for arbitration shall be divided equally and paid one-half (1/2) by management and one-half (1/2) by labor; compensation for mediation and fact-finding shall be paid by the moving party, or shared if by mutual request.

(f) Multi-year compensation agreements are encouraged. No compensation agreement shall be for a period of less than three (3) years. When multi-year agreements are negotiated, the Annual Study and the annual negotiations for the years in which a new contract is not being negotiated shall be suspended.

(g) Compensation negotiations pursuant to this section shall be confidential among the parties: PROVIDED, HOWEVER, That the Council may appoint observers from its membership and staff, or both, to the negotiations. Such Council observers will be responsible for informing the members of the Council of the progress of negotiations. All

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information concerning negotiations shall be considered confidential until impasse or settlement.

(h) Any settlement agreed to before September 15 of any year(s), including an arbitrator's award, shall be included in the Mayor's budget request in mid-September. Any other settlements shall be included in a supplemental budget request submitted by the Mayor. The Mayor shall fully support the passage of such settlement by every reasonable means before all legislative bodies.

(i) All labor relations settlements negotiated or otherwise determined pursuant to this section shall become effective by their terms, unless the Council rejects such settlement by a two-thirds (2/3) vote of its members within sixty (60) calendar days of its submission by the Mayor. In the event that the Council rejects any settlement by such two-thirds (2/3) vote, the settlement shall be returned to the parties for renegotiation with specific reasons for the rejection appended thereto. The Council shall have the authority to accept, modify or reject any settlement: PROVIDED, HOWEVER, That any modification shall be made only with the mutual consent of the parties to the settlement.

(j) Any settlement, including an arbitrator's award, shall be included in either the District budget request or

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in any supplemental budget request and shall be fully supported by the District by every reasonable means before Congressional bodies.

(k) Notwithstanding any provisions of titles XXI, XXII or XXVI of this act to the contrary, collective bargaining is permissible concerning the benefit programs authorized by these titles of the act: PROVIDED, HOWEVER, That the Council shall adopt such agreement by act.

(l) Where the Public Employee Relations Board is required to determine an appropriate bargaining unit for the purpose of compensation negotiations, pursuant to section 1715 of this act, the annual study provided for in subsection (b) of this section shall begin no later than thirty (30) days after the Board's determination and shall be concluded and published within ninety (90) days of said determination. Negotiations for compensation between management and the exclusive representative of said unit shall begin within sixty (60) days after publication of the annual study. The timetable for the conduct and conclusion of such negotiations shall be that provided for in subsection (e) of this section. The Mayor shall negotiate agreements concerning working conditions at the same time as he or she negotiates compensation issues.

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Sec. 1114. Pay Setting for Firefighters, Police Officers and Teachers for the Fiscal Year Ending September 30, 1979 and September 30, 1980.

(a)(1) The Mayor of the District of Columbia shall ascertain the average percentage increase to be used by the President of the United States in adjusting rates of pay (to be effective October 1, 1978 and October 1, 1979, respectively) under section 5305(a)(2) of Title 5 of the United State Code, or whether the President of the United States intends to submit to the United States Congress an alternative plan with respect to pay adjustments under section 5305(c) of Title 5 of the United States Code, and the contents of the alternative plan of the President of the United States.

(2) The Mayor of the District of Columbia shall then adjust the rates of pay in each class and service step on the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958, approved August 1, 1968 (72 Stat. 481; D.C. Code, sec. 4-823(a)) and in section 1 of the District of Columbia Teachers' Salary Act of 1955, approved August 3, 1965 (67 Stat. 321; D.C. Code sec. 31-1501), on the first pay period after October 1, 1978 and October 1, 1979, respectively, to reflect the

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average percentage increase given to General Schedule employees. If the alternative plan of the President of the United States becomes effective as provided in section 5305 of Title 5 of the United States Code, the Mayor of the District of Columbia shall adjust the rates of pay to reflect the average percentage increase given to General Schedule employees under such alternative plan. If the alternative plan of the President of the United States is disapproved by the United States Congress, the Mayor of the District of Columbia shall adjust such rates of pay to reflect the average percentage increase of the Presidential adjustments of rates of pay under section 5306(n) of Title 5 of the United States Code.

(3) The adjustments in the rates of pay made by the Mayor of the District of Columbia under this section shall be effective on and payable for the first day of the first pay period beginning on or after October 1, 1978 and October 1, 1979, respectively, or the effective date of the alternative plan of the President of the United States, whichever is later.

(b) The rates of pay, which become effective under this section, shall be the rates of pay for each class and service step concerned, as if those rates had been set by

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statute, and shall remain in effect until amended by the Council of the District of Columbia.

(c) The rates of pay established under this section shall supersede and render inapplicable those corresponding rates of pay set prior to the effective date of the rates of pay set under this section.

(d) The rates of pay that take effect under this section shall be published in the District of Columbia Register.

(e)(1) Retroactive compensation or salary shall be paid by reason of the amendments made by this act only in the case of an individual in the service of the District of Columbia government, the Board of Education of the District of Columbia or of the United States (including service in the Armed Forces of the United States) on the effective date of this section: EXCEPT, That such retroactive compensation or salary shall be paid:

(A) to any employee covered by this section who retired during the period beginning on the first day of the first pay period which began on or after October 1, 1978 and October 1, 1979, respectively, or the effective date of the alternative plan of the President of the United States,

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whichever is later, and ending on the effective date of this act, for services rendered during such period; and

(B) in accordance with the provisions of subchapter VIII of chapter 55 of Title 5 of the United States Code (relating to settlement of accounts of deceased employees), for services rendered during the period beginning on the first pay period which began on or after October 1, 1973 or October 1, 1979, respectively, or the effective date of the alternative plan of the President of the United States, whichever is later, and ending on the effective date of this act by any such employee who dies during such period.

(2) For the purpose of this subsection, service in the Armed Forces of the United States in the case of an individual relieved from training and service in the Armed Forces of the United States, or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the municipal government of the District of Columbia.

(3) For the purpose of determining the amount of insurance for which an individual is eligible under the provisions of chapter 87 of Title 5 of the United States

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Code (relating to government employees' group life insurance), all changes in rates of compensation or salary which result from the enactment of this act shall be held and considered to be effective as of the effective date of this act.

(f) The process, as set forth in section 1114(a), whereby the salaries of the District of Columbia police, firefighters and teachers are adjusted in accordance with the rates of pay for Federal General Schedule employees, shall be in effect only for the period commencing on October 1, 1978 and ending on September 30, 1980.

## TITLE XII

### HOURS OF WORK AND LEGAL HOLIDAYS

#### Sec. 1201. Hours of Work

(a) A basic administrative workweek of forty (40) hours is established for each full-time employee and the hours of work within that workweek shall be performed within a period of not more than six (6) of any seven (7) consecutive days: EXCEPT, That

(1) the basic workweek for uniformed members of the Firefighting Division of the District of Columbia Fire

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Department shall not exceed forty-eight (48) hours and the Division shall operate under a two (2) shift system with all hours of duty of either shift being consecutive; and

(2) the basic workweek and hours of work for all employees of the Board of Education and the Board of Trustees of the University of the District of Columbia shall be established under rules and regulations issued by the respective Boards: PROVIDED, HOWEVER, That the basic work scheduling for all employees in recognized collective bargaining units shall be subject to collective bargaining, and collective bargaining agreements shall take precedence over the provisions of this title.

(b) Except when the Mayor determines that an organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, tours of duty shall be established to provide, with respect to each employee in an organization, that:

(1) assignments to tours of duty are scheduled in advance over periods of not less than one (1) week;

(2) the basic forty (40) hour workweek is scheduled on five (5) days, Monday through Friday when practicable.

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and the two (2) days outside the basic workweek are consecutive;

(3) the working hours in each day in the basic workweek are the same;

(4) the basic nonovertime workday may not exceed eight (8) hours;

(5) the occurrence of holidays may not affect the designation of the basic workweek; and .

(6) breaks in working hours of more than one (1) hour may not be scheduled in a basic workday except under rules and regulations on flexible work schedules as provided in subsection (e) below.

(c) Special tours of duty, of not less than forty (40) hours, may be established to enable employees to take courses in nearby colleges, universities or other educational institutions that will equip them for more effective work in the District government. Premium pay may not be paid to an employee solely because his or her special tour of duty results in his or her working on a day or at a time of day for which premium pay is otherwise authorized.

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(d) To the maximum extent practicable, time to be spent by an employee in a travel status away from his or her official duty station, shall be scheduled within the regularly scheduled workweek of the employee.

(e) The Mayor shall issue rules and regulations governing hours of work. Such rules and regulations shall provide for the use of flexible work schedules within the forty (40) hour workweek when such schedules are considered both practicable and feasible.

Sec. 1202. Legal Holidays

(a) Legal public holidays are as follows:

New Year's Day, January 1st of each year;

Dr. Martin Luther King Jr.'s Birthday, January 15th of each year;

Washington's Birthday, the third Monday in February of each year;

Memorial Day, the last Monday in May of each year;

Independence Day, July 4th of each year;

Labor Day, the first Monday in September of each year;

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Columbus Day, the second Monday in October of each year;

Veterans Day, November 11th of each year;

Thanksgiving Day, the fourth Thursday in November of each year; and

Christmas Day, December 25th of each year.

(b) For purposes of pay and leave with respect to a legal public holiday listed above and any other day designated to be a legal holiday by the Mayor, the following rules and regulations shall apply:

(1) for full-time employees whose basic workweek is Monday through Friday, if a legal holiday occurs on Saturday, the Friday immediately before is a legal public holiday and if a legal holiday occurs on Sunday, the Monday immediately following is a legal public holiday;

(2) for full-time employees whose basic workweek is other than Monday through Friday, except the regular weekly non-workday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly nonworkday is a legal public holiday for the employee; and

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(3) for part-time employees a legal holiday or a day designated as a holiday under paragraph (1) above which falls on the employee's regularly scheduled workday is a legal public holiday for the employee.

(c) January 20th of each fourth year starting in 1981, Inauguration Day, is a legal public holiday for the purpose of pay and leave of employees scheduled to work on that day. When January 20th of any fourth year falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purposes of this section.

(d) When an employee, having a regularly scheduled tour of duty is relieved or prevented from working on a day District agencies are closed by order of the Mayor, he or she is entitled to the same pay for that day as for a day on which an ordinary day's work is performed.

(e) The Mayor shall prescribe rules and regulations governing the pay and leave of employees in connection with legal public holidays and other designated non-work days.

(f) The Board of Trustees of the University of the District of Columbia shall have authority to establish not

more than three (3) additional holidays to honor persons or events germane to academic interests.

Sec. 1203. Leave

(a) All employees shall be entitled to earn annual and sick leave as provided herein, except:

(1) educational employees under the Board of Education or Board of Trustees of the University of the District of Columbia. The leave system for such employees shall be established by rules and regulations promulgated by the respective Boards;

(2) an intermittent employee who does not have a regularly scheduled tour of duty;

(3) elected officials;

(4) members of Boards and Commissions whose day is fixed under section 1108 of this act; or

(5) a temporary employee appointed for less than ninety (90) days: PROVIDED, HOWEVER, That leave for all employees included within recognized collective bargaining units shall be subject to collective bargaining and collective bargaining agreements shall take precedence over the provisions of this title.

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(b) The days of leave are days on which an employee would otherwise work and receive pay and are exclusive of holidays and non-work days. The annual leave provided by this section, including annual leave that will accrue to an employee during the year, may be granted at any time during the year by the appropriate personnel authority.

(c) An employee who accepts a position excepted from these provisions under subsection (a) above, without a break in service may elect either a lump sum payment for any unused annual leave or have such leave retained for recredititing purposes if he or she returns to a position covered by these provisions.

(d) An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments, or to have the excess leave carried forward as a charge against later accruing annual leave, unless repayment is waived as provided under title XXIX of this act.

(e) An employee is entitled to annual leave with pay which accrues as follows:

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(1) one-half (1/2) day for each full biweekly pay period for an employee with less than three (3) years of federal or District government service;

(2) three-fourths (3/4) day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth (1 1/4) days, for an employee with three (3) but less than fifteen (15) years of federal or District government service; and

(3) one (1) day for each full biweekly pay period for an employee with fifteen (15) or more years of federal or District government service.

For the purposes of this subsection, an employee is deemed employed for a full biweekly pay period if he or she is employed during the days within that period, exclusive of legal holidays and non-work days which falls within his or her basic administrative workweek. A part-time employee serving on a prearranged scheduled tour of duty is entitled to earn leave as provided above on a pro rata basis. Leave accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid based on biweekly pay periods. A change in the rate of accrual of annual leave by an employee

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under this subsection takes effect at the beginning of the pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

(f) In determining years of service for leave accrual purposes, an employee is entitled to credit for all service creditable under section 8332 of Title 5 of the U.S. Code for annuity purposes under Civil Service Retirement. An employee who is a military retiree is entitled to credit for active military service only if his or her retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of Title 38 of the U.S. Code. The determination of years of service may be made on the basis of an affidavit of the employee.

(g) An employee whose current employment is limited to less than ninety (90) days is entitled to annual leave only after being currently employed for a continuous period of ninety (90) days under successive temporary appointments without a break in service. After completing the ninety

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(90) days period, the employee is entitled to be credited with the leave that would have accrued to him or her since the date of his or her initial temporary appointment.

(h) Annual leave which is not used by an employee, accumulates for use in succeeding years until it totals not more than thirty (30) days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a calendar year.

(1) Annual leave in excess of thirty (30) days which was accumulated under an earlier statute remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year until the employee's accumulated leave does not exceed thirty (30) days.

(2) Annual leave which is lost due to administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960, exigencies of the public business when the annual leave was scheduled in

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advance or sickness of the employee when the annual leave was scheduled in advance, shall be restored to the employee:

(A) Restored annual leave which is in excess of thirty (30) days shall be credited to a separate leave account for the employee and shall be available for use by the employee for a period of two (2) years. Restored leave shall be included in a lump-sum payment if unused and still available upon the separation of the employee.

(B) Annual leave otherwise accruable after June 30, 1960, which is lost because of administrative error and is not recrated because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three (3) years immediately following the date on which the error is discovered.

(i) When an individual who received a lump sum payment for leave is reemployed before the end of the period covered by the lump sum payment, except in a position excepted under subsection (a) of this section, he or she shall refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump sum period.

(j) An employee is entitled to sick leave with pay which accrues on the basis of one-half (1/2) day for each full biweekly pay period; EXCEPT, That sick leave with pay accrues to a member of the Firefighting Division of the Fire Department on the basis of two-fifths (2/5) of a day for each full biweekly pay period. Sick leave may not be charged to the account of a uniformed member of the Metropolitan Police Department or the Fire Department for an absence due to injury or illness resulting from the performance of duty.

(k) The annual and sick leave to the credit of a federal employee who transfers to the District government without a break in service will be transferred to the credit of the employee under the District government leave system. The annual and sick leave to the credit of an employee who transfers from a position under a different leave system(s) without a break in service shall be transferred on an adjusted basis under rules and regulations prescribed by the Mayor.

(l) An employee is entitled to leave, without loss of pay, leave or credit for time of service, during a period of absence in which he or she is summoned, in connection with a judicial proceeding, by a court or other authority

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responsible for the conduct of that proceeding to serve as a juror or as a witness on behalf of any party in connection with judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party.

(m) An employee is entitled to leave without loss in pay leave or service for each day, not in excess of fifteen (15) days in a calendar year, in which he or she is on active duty or is engaged in field or coast defense training under sections 502 through 505 of Title 32 of the U.S. Code as a Reserve member of the Armed Forces or member of the National Guard. An employee who is a member of a Reserve Component of the Armed Forces, as described in section 261 of Title 10 of the U.S. Code, or the National Guard, as described in section 101 of Title 32 of the U.S. Code and performs, for the purpose of providing military aid to enforce the law, the following:

(1) federal service under sections 331, 332, 333, 3500 or 8500 of Title 10 of the U.S. Code or other provision of law, as applicable; or

(2) full-time military service for his or her state, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, or a territory of the United States is

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entitled, during and because of such service to leave without loss of pay, leave or credit for service. Leave granted by this paragraph shall not exceed twenty-two (22) workdays in a calendar year. An employee who is a member of the National Guard of the District of Columbia, is entitled to leave without limitation and without loss in pay or time for each day of a parade or encampment ordered or authorized under section 49 of the Act entitled "An Act to provide for the organization of the militia of the District of Columbia", approved March 1, 1889, as amended (25 Stat. 779; D.C. Code, sec. 39-601 et seq.). This provision covers each day of service in the National Guard, or a portion thereof, an employee is ordered to perform by the commanding general. An amount (other than travel, transportation, or per diem allowance) received by an employee for military service as a member of the Reserve or National Guard for a period for which he or she is entitled to military leave shall be credited against the pay due the employee for the same period.

(n) An employee is entitled to not more than three (3) days of leave without loss of or reduction in pay, leave or service to make arrangements for or attend the funeral or memorial service for an immediate relative who died as a

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result of wound, disease or injury incurred while serving as a member of the Armed Forces in a combat zone.

(o) The Mayor is authorized to issue necessary rules and regulations to implement the provisions of this section.

(p) In units where exclusive recognition has been granted, the Mayor or an appropriate personnel authority may enter into agreements with the exclusive bargaining agent to continue employee coverage under the provisions of this act while an employee(s) serves in a full-time or regular part-time capacity with a labor organization at no loss in benefits to the individual employee(s): PROVIDED, HOWEVER, That the cost to the District shall be paid by the labor organization while the employee(s) is so engaged, and: PROVIDED, FURTHER, That this provision shall not limit the negotiability or use of official time by unit employees for the purposes of investigation, processing and resolving grievances, complaints or any and all other similar disputes.

(q) After advising his or her supervisor, an employee is entitled to utilize up to ten (10) hours of administrative leave for the purpose of responding to adverse actions initiated under the provisions of title XVI.

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TITLE XIII

EMPLOYEE DEVELOPMENT

Sec. 1301. Programs for Employee Development

(a) The Mayor and the District of Columbia Board of Education shall each install and maintain programs for the training and development of their respective employees through planned courses, systems or other instruction or education in fields which are or will be related to the performance of official duties for the District, in order to increase their knowledge, proficiency, ability, skill and qualifications in the performance of these duties. This system of training shall be created to ensure that the principles of efficiency, economy and equitable treatment for all employees is carried out for the successful operation of the District government.

(b) When educational facilities under the control and direction of the District government are not the most economical available to carry out the provisions of this section, the Mayor and the District of Columbia Board of Education may make arrangements and agreements with colleges, universities, educational institutions, appropriate institutions or corporations. The appropriate

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personnel authority shall have the authority to enter into these arrangements and agreements for employee development. The Mayor and the District of Columbia Board of Education shall issue rules and regulations concerning what items must be included in agreements for employee development activities relying on non-District facilities.

(c)(1) An employee shall not suffer a loss in pay, tenure or other rights and benefits by reason of participation in any training or career development program when such participation has been approved or authorized by the District government.

(2) The District may (A) pay all or a part of the pay of an employee selected and assigned for training under this section (except overtime, holiday, night or Sunday premium pay); and (B) pay all or a part of the necessary expenses of the training, including the employee's costs of travel, subsistence, transportation, tuition, fees, books and related materials; and membership fees to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent for the training. The prohibition in this subsection on payment of premium pay may be waived when the Mayor determines that payment of premium pay would be in the

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interests of equity and good conscience or in the public interest.

(d)(1) An employee selected for training under this section in a university, college or other educational institution not controlled by the District shall agree in writing with the District that he or she will (A) continue in the service of the District after the end of the training period for a period of time at least equal to the length of the training period, unless he or she is involuntarily separated from that service; and (B) pay to the District the amount of expenses incurred by it in connection with the training, other than his or her pay, if he or she voluntarily leaves that service before the end of the period for which he or she had agreed to serve.

(2) If an employee fails to fulfill the agreement under this subsection to pay the expenses of the training, a sum equal to those expenses is recoverable by the District from the employee, or his or her estate, by setoff against pay, amount of retirement credit, or other amount due the employee from the District.

(3) The right of recovery under paragraph (2) of this subsection may be waived, in whole or in part, by the Mayor and the District of Columbia Board of Education if

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recovery would be against equity and good conscience, or against the public interest.

(4) The Mayor and the District of Columbia Board of Education may exempt from the requirement for entering into a written agreement under this subsection the following:

(A) an employee selected for training that does not exceed eighty (80) hours within a single program;

(B) an employee selected for training which is given through a correspondence course; and

(C) an employee selected for training in a manufacturer's training facility, if that training is the direct result of the lease or purchase of that manufacturer's product by the District government.

(e) The Mayor and the District of Columbia Board of Education shall issue rules and regulations concerning the implementation of this title, consistent with equal employment opportunities and standards.

(f) The head of each District agency shall prepare an annual employee development plan which identifies subject matter areas where training is needed, the types of programs and courses which could be used to meet those identified

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training needs and the types of training activities which will be carried out in the coming year:

(1) The annual employee development plan should also evaluate the impact and success of prior training and employee development activities. Cost figures should include employee pay and benefit expenses while engaged in training on official time, tuition expenses and other fees, travel costs and other appropriate items; and

(2) The Council may review and inspect all plans developed in accordance with this subsection.

(g) Programs developed under the authority of this title are appropriate matters for collective bargaining with labor organizations.

#### TITLE XIV

#### PERFORMANCE EVALUATION

##### Sec. 1401. Performance-Rating Plans

For the purpose of recognizing the merits of employees and their contributions to efficiency and economy in the District, the Mayor, the District of Columbia Board of Education, and the Board of Trustees of the University of the District of Columbia (for non-Educational employees

under its jurisdiction) shall establish and use a performance-rating plan for evaluating the work performance of employees under their respective jurisdiction. The performance rating plan shall be established after negotiation with appropriate labor organizations.

**Sec. 1402. Performance-Rating Plan; Requirement**

The performance-rating plan shall be as simple as possible and shall provide the following:

- (a) that written performance requirements shall be established and shall be made known to all employees;
- (b) that performance of the employee be fairly appraised in relation to the requirements;
- (c) that appraisals be used to improve employee performance;
- (d) that supervisor-employee relationships be strengthened;
- (e) that each employee be kept currently advised of his or her performance and promptly notified of his or her performance rating;
- (f) that each employee shall be rated annually; and

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(g) for the appropriate inclusion of evaluations by members of the public whom the employee serves.

Sec. 1403. Ratings for Performance

(a) Each performance-rating plan shall provide for ratings representing at least five (5) levels:

- (1) outstanding performance;
- (2) above average performance;
- (3) average performance;
- (4) below average performance; and
- (5) unsatisfactory performance.

(b) A performance rating of outstanding may be given only when all aspects of performance not only exceed normal requirements but are outstanding and deserve special commendation.

(c) An employee may be rated unsatisfactory only after a ninety (90) day advance warning period. The employee shall be advised by the person responsible for performing the rating that a ninety (90) day period is afforded to allow the employee to demonstrate average performance. A removal action resulting from an unsatisfactory performance

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rating must be accomplished through the adverse action procedures set forth in title XVI of this act, unless otherwise provided by a negotiated contract.

(d) Outstanding and unsatisfactory performance ratings must be approved by the agency head or his or her designee.

Sec. 1404. Review of Ratings

(a) An agency head, on the written request of an employee of that agency, may provide one (1) impartial review of the performance rating of the employee.

(b) Each agency shall establish a board of review to consider and pass on the merits of performance ratings under the rating plan established under this title. The board of review shall have three (3) members, one (1) member designated by the head of the agency, one (1) member designated by the employees of the agency in the manner prescribed by the Mayor and one (1) member, who shall serve as chairperson, designated by the Mayor. Alternate members are designated in the same manner as their respective principals.

(c) At the hearing the appellant and representatives of the agency are entitled to submit pertinent information and to hear or examine, and reply to, information submitted by

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others. After the hearing, the board of review shall confirm the appealed rating or make such changes in the rating as it considers proper. The agency shall then effect the decision of the board. The agency or an employee may seek review of the decision of the board before the Office of Employee Appeals, but such an appeal shall not serve to stay the decision of the board.

(d) The provisions of this section shall not apply to the review of performance ratings of employees covered by a collective bargaining agreement which provides an exclusive means of reviewing performance ratings.

**Sec. 1405. Other Rating Procedures Prohibited**

An employee may not be given a performance rating, regardless of the name given to the rating, and a rating may not be used as a basis for any action, except under the performance rating plan as authorized by this act unless provided otherwise by a negotiated contract.

**TITLE XV**

**EMPLOYEE RIGHTS AND RESPONSIBILITIES**

**Sec. 1501. Declaration of Purpose**

The Council of the District of Columbia declares as its policy to:

(a) enhance the rights of District employees to challenge the actions or failures of their agencies and to express their views without fear of retaliation through appropriate channels within the agency, complete and frank responses to Council inquiries, free access to law-enforcement officials, oversight agencies of both the executive and legislative branches of government, and appropriate communication with the public;

(b) ensure that acts of the Council enacted to protect individual citizens are properly enforced;

(c) provide new rights and remedies to guarantee and to ensure that public offices are truly public trusts;

(d) hold public employees personally accountable for failure to enforce the laws and for negligence in the performance of their public duties;

(e) ensure the rights of employees to expose corruption, dishonesty, incompetence, or administrative failure are protected;

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(f) guarantee the rights of employees to contact and communicate with the Council and be protected in that exercise;

(g) protect employees from reprisal or retaliation for the performance of their duties; and

(h) motivate employees to do their duties justly and efficiently.

Sec. 1502. Employee Bill of Rights

Employees shall have the following rights:

(a) the right to freely express their opinions on all public issues, including those related to the duties they are assigned to perform: PROVIDED, HOWEVER, That any agency may promulgate reasonable rules and regulations requiring that any such opinions be clearly disassociated from that agency's policy;

(b) the right to disclose information unlawfully suppressed, information concerning illegal or unethical conduct which threatens or which is likely to threaten public health or safety or which involves the unlawful appropriation or use of public funds, and information which would tend to impeach the testimony of employees of the

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District government before Committees of the Council or the responses of such employees to inquiries from members of the Council concerning the implementation of programs, information which would involve expenditure of public funds, and the protection of the constitutional rights of citizens and the rights of government employees under this act and under any other laws, rules or regulations for the protection of the rights of employees; PROVIDED, HOWEVER, That nothing in this section shall be construed to permit the disclosure of the contents of personnel files, personal medical reports or any other information in such a manner as to invade the individual privacy of an employee or citizen of the United States except as otherwise provided in this act.

(c) the right to communicate freely and openly with members of the Council and to respond fully and with candor to inquiries from committees of the Council, and from members of the Council; PROVIDED, HOWEVER, That nothing in this section shall be construed to permit the invasion of the individual privacy of other employees or of citizens of the United States;

(d) the right to assemble in public places for the free discussion of matters of interest to themselves and to the

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public and the the right to notify on their own time, fellow employees and the public of such meetings;

(e) the right to humane, dignified and reasonable conditions of employment, which allow for personal growth and self-fulfillment, and for the unhindered discharge of job responsibilities; and

(f) the right to individual privacy: PROVIDED, HOWEVER, That nothing in this section shall limit in any manner an employee's access to his or her own personnel file, medical report file, or any other file or document concerning his or her status or performance within his or her agency, except as otherwise provided in title XXXI of this act.

Sec. 1503. Complaints of Criminal Harassment for Appearances and Testimony Before the Council

(a) It shall be unlawful for any agency head or his or her designee to coerce, harass or take any retaliatory actions against subordinate employees appearing as witnesses before the Council or any of its committees.

(b) Any complaint alleging coercion and harassment by agency heads of subordinate employees appearing as witnesses before or submitting testimony to the Council shall be promptly investigated by the Corporation Counsel for the

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District of Columbia. Within three (3) months after the filing of a complaint, the Corporation Counsel shall render a decision on whether or not prosecution under this section is warranted. If the Corporation Counsel decides prosecution is not warranted, he or she shall state with specificity the facts and reasons upon which such decision is based.

(c) If the Corporation Counsel renders a decision pursuant to this section that prosecution is not warranted, or if he or she fails to render a decision as required by this section, any citizen may petition the Superior Court of the District of Columbia for an order to compel prosecution. If the court finds, after an independent review of the evidence, that a prima facie case exists, it shall order prosecution to be commenced.

(d) In its independent review of the evidence, the court shall have access to the enforcement file of the Corporation Counsel and to all other relevant documents or files.

(e) In addition to any other civil penalty or administrative sanction which may be available to an employee against a person who violates the provisions of this section, a person found to be in violation of subsection (a) of this section may be fined up to five

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thousand dollars (\$5,000) or sentenced to one (1) year in prison, or both. The Corporation Counsel shall prosecute violations of this section in the name of the District of Columbia.

(f) Should the Corporation Counsel decline to prosecute following a direction to do so as provided in subsection (c) of this section, an employee aggrieved under the provisions of this subsection may initiate a civil action against the District of Columbia and the agency head or his or her designee in the Superior Court of the District of Columbia. Following a trial on the merits, the court may award civil damages in an amount not to exceed five thousand dollars (\$5,000) against any or all of the defendants, plus reasonable attorneys' fees and costs. Interest shall be recoverable from the date the Corporation Counsel was directed to initiate a criminal prosecution pursuant to subsection (c) of this section but declined to do so.

Sec. 1504. Public Employees as Fiduciaries

(a) For purposes of this section, "Consumer Protection Law" shall include any law intended to protect, or which does in fact protect, individual consumers from unfair, deceptive or misleading acts or practices; or the nondisclosure of product quality, weight, size or

performance. Any employee who administers, enforces or implements any health, safety, environmental or consumer protection law, or any rules and regulations promulgated for the enforcement of such laws, is a fiduciary to any individual or class of individuals intended to be protected, or who are in fact protected, from injury or harm, or risk of injury or harm, by laws, rules and regulations, and, as a fiduciary, is obligated to protect such individual or class of individuals.

(b) Any individual or class of individuals may commence a civil action on his or her or their own behalf against any employee or employees in any agency for breach of a fiduciary duty upon showing that said employee or employees by his or her or their acts or omissions has or have exposed said individual or class of individuals to an injury or harm, or risk of injury or harm, from which they are to be protected by the employee or employees. Such action may be brought in the Superior Court of the District of Columbia. The District of Columbia, through the Corporation Counsel, shall defend any employee or employees against whom such action is commenced. Such employee or employees may, however, at his or her or their option, provide for his or her or their own defense.

(c) If the court finds that any employee or employees have breached their fiduciary duty by any act or omission or by any series of acts or omissions, the court shall do the following:

(1) order performance or cessation of performance, as appropriate; and

(2) take any other appropriate action, including the assessment of fines not to exceed one thousand dollars (\$1,000), against any employee or employees within the agency who has or have breached the duties of the fiduciary relationship.

Sec. 1505. Curbing Fraud and Conflicts of Interest

(a)(1) Any citizen shall have a right to commence a suit in the Superior Court of the District of Columbia on behalf of the District government to recover funds which have been improperly paid by the District government while there exists any conflict of interest on the part of the employee or employees directly or indirectly responsible for such payment.

(2) It shall be an affirmative defense to any action under this section that the defendant did not know or have reason to know of the conflict of interest.

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(b) Any citizen who commences a suit under this section shall be entitled to ten percent (10%) of the amount recovered for the District. The prevailing party shall recover reasonable attorney's fees and other costs incidental to the action.

(c) The right of a citizen to commence and maintain a suit under this section shall continue notwithstanding any action taken by the Corporation Counsel or any United States Attorney: PROVIDED, HOWEVER, That if the District shall first commence suit, a citizen may not commence a suit under this section: PROVIDED, FURTHER, However, That if the District shall fail to carry on such suit with due diligence within a period of six (6) months or within such additional time as the court may allow, a citizen may commence a suit under this section and such suit shall continue notwithstanding any action taken by the Corporation Counsel or any United States Attorney.

## TITLE XVI

### ADVERSE ACTIONS AND GRIEVANCES

#### Sec. 1601. Adverse Actions

(a) The Mayor, the District of Columbia Board of Education and the Board of Trustees of the University of the

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District of Columbia shall issue rules and regulations establishing internal agency corrective, rather than punitive, measures. Adverse action procedures shall not be in conflict with these corrective measures nor with any provisions of this title. Such rules and regulations may provide for reprimands and for suspensions for thirty (30) days or less. The appropriate personnel authority shall administer the disciplinary procedures established under this subsection, subject to the provisions of title VI of this act. The extent of the corrective action shall reflect the severity of the infraction.

(b) A permanent employee in the Career or Educational Services who is not serving a probationary period or an employee appointed under the authority of section 904(b) of this act and serving for at least one (1) year with average performance, may be suspended for more than thirty (30) days, reduced in rank or pay, furloughed without pay or removed from the service only for cause and only in accordance with the provisions of this title and title VI of this act. The extent of the corrective action shall reflect the severity of the infraction.

(c) The Office of Employee Appeals shall be the final administrative appellate authority with respect to adverse

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action appeals by all District employees, subject to judicial review.

(d) For the purposes of this section, cause shall be defined as follows:

- (1) fraud in securing appointment or falsification of official records;
- (2) incompetency;
- (3) inefficiency;
- (4) inexcusable neglect of duty;
- (5) insubordination;
- (6) dishonesty;
- (7) drunkenness on duty;
- (8) on-duty use of drugs not prescribed and/or obtained illegally;
- (9) inexcusable absence without leave;
- (10) conviction of a felony. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony is deemed to be a conviction within the meaning of this section. Notwithstanding the foregoing,

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cause under this paragraph with regard to uniformed members of the Metropolitan Police Department is deemed to be the commission of any act which would constitute a crime;

(11) discourteous treatment of the public, supervisor, or other employees;

(12) improper political activity except as otherwise permitted by this act or the Constitution;

(13) willful disobedience except as authorized in this act;

(14) misuse, mutilation or destruction of District property or funds;

(15) refusal to take and subscribe any oath or affirmation which is required by this law in connection with his or her employment;

(16) other failure of good behavior during duty hours which is of such a nature that it causes discredit to his or her agency or his or her employment. Notwithstanding the foregoing, the provisions of this paragraph shall be applicable to uniformed members of the Metropolitan Police Department during both on-duty and off-duty hours;

(17) engaging in a strike;

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(18) misuse of official position or unlawful coercion of an employee for personal gain or benefit;

(19) lack of dependability;

(20) a finding by the Office of Employee Appeals, the Office or Commission on Human Rights or a court of competent jurisdiction in the District of Columbia that the employee has engaged in violation of the guarantees in titles I and VII of this act in the performance of that employee's official duties; or

(21) a finding that the employee has violated the provisions of title XVIII or section 1503 of this act.

(e) The provisions of this title shall also apply to employees who are reduced in grade or pay as a result of a classification action affecting the employees' positions.

Sec. 1602. Grievances

The Mayor, the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall issue rules and regulations providing procedures for the prompt handling of grievances of employees and applicants for employment. The grievance system shall be made known to all employees and shall be

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consistent with the procedures, policies and guidelines set forth in pertinent District personnel rules and regulations. The grievance system shall provide for the expeditious adjustment of grievances and complaints and the prompt taking of appropriate corrective action when the complaint or grievance is, upon review, found to be justified.

Sec. 1603. Procedures and Appeals

(a) An individual in the Career and Educational Services against whom an adverse action is recommended in accordance with this title, is entitled to reasons, in writing, and to the following:

(1) notice of the action sought and of charges preferred against him or her;

(2) a copy of the charges;

(3) a reasonable time for filing a written answer to the charges, with affidavits; and

(4) a written decision on the answer within forty-five (45) calendar days of the date that charges are preferred.

Examination of witnesses, a trial or hearing is not required, but may be provided at the discretion of the

individual or individuals who are responsible for handling the adverse actions. Copies of the charges, the notice of hearing, the answer, the decision and the reasons therefor shall be made a part of the records of the agency and, on request, shall be furnished to the individual affected and to the Office of Employee Appeals.

(b) An appeal from decisions effected under sections 1601 and 1602 of this title may be made to the Office of Employee Appeals. When, upon appeal, any adverse action or decision by an agency on an employee initiated grievance is found to be unwarranted by the Office of Employee Appeals, the corrective or remedial action directed by the appellate authority shall be taken in accordance with the provisions of title VI of this act within thirty (30) days of the appellate decision.

(c) An appeal under subsection (b) of this section shall not serve to delay the effective date of a decision by the agency.

(d) Any system of grievance resolution or review of adverse actions negotiated between the District and a labor organization shall take precedence over the procedures of this title for members of a labor organization in a bargaining unit. Any adverse action to be effected may only

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be for causes as specified in this title. If an employee does not pay dues or a service fee to the labor organization, he or she shall pay all reasonable costs to the labor organization incurred in representing such employee.

## TITLE XVII

### LABOR-MANAGEMENT RELATIONS

#### Sec. 1701. Policy

The District of Columbia government finds and declares that an effective collective bargaining process is in the general public interest and will improve the morale of public employees and the quality of service to the public.

(a) Each employee of the District government has the right, freely and without fear of penalty or reprisal: (1) to form, join and assist a labor organization or to refrain from this activity; (2) to engage in collective bargaining concerning terms and conditions of employment, as may be appropriate under this law and rules and regulations, through a duly designated majority representative; and (3) to be protected in the exercise of these rights.

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(b) The Mayor or appropriate personnel authority, including his or her or its duly designated representative(s), shall meet at reasonable times with exclusive employee representatives to bargain collectively in good faith.

(c) Subsection (a) of this section does not authorize participation in the management of a labor organization or activity as a representative of such an organization by a supervisor or management official or by an employee when the participation or activity would result in a conflict of interest or otherwise be incompatible with law or with the official duties of the employee. Supervisor means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment. The definition of supervisor shall include an incumbent of a position which is classified at a level higher than it would have been had the incumbent not performed some or all of the above duties.

Sec. 1702. Labor-Management Relations Program

(a) The Public Employee Relations Board, (hereinafter in this title referred to as the "Board") shall issue rules and regulations establishing a labor management relations program to implement the policy set forth in this title.

(b) The labor-management relations program shall include: (1) a system for the orderly resolution of questions concerning the recognition of majority representatives of employees; (2) the resolution of unfair labor practice allegations; (3) the protection of employee rights as set forth in section 1706 of this title; (4) the right of employees to participate through their duly-designated exclusive representative in collective bargaining concerning terms and conditions of employment as may be appropriate under this act and rules and regulations issued pursuant thereto; (5) the scope of bargaining; (6) the resolution of negotiation impasses concerning matters appropriate for collective bargaining; and (7) any other matters which affect employee-employer relations.

(c) Impasse resolution machinery may include, but need not be limited to, the following:

(1) mediation;

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- (2) fact-finding;
- (3) advisory arbitration;
- (4) request for injunction;
- (5) binding arbitration;
- (6) final best offer binding arbitration; and
- (7) final best offer binding arbitration item by item on non-compensation matters.

(d) If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, further negotiation appears to be unproductive to the Board, an impasse shall be deemed to have occurred. Where deemed appropriate, impasse resolution procedures may be conducted by the Board, its staff or third parties chosen either by the Board or by the mutual concurrence of the parties to the dispute. Impasse resolution machinery may be invoked by either party or on application of the Board. The choice of the form(s) of impasse resolution machinery to be utilized in a particular instance shall be the prerogative of the Board, after appropriate consultation with the interested parties. In considering the appropriate award for each

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impasse item to be resolved, any third party shall consider at least the following criteria:

- (1) existing laws and rules and regulations which bear on the item in dispute;
- (2) ability of the District to comply with the terms of the award;
- (3) the need to protect and maintain the public health, safety and welfare; and
- (4) the need to maintain personnel policies that are fair, reasonable and consistent with the objectives of this act.

Sec. 1703. Standards of Conduct for Labor Organizations

(a) Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to the Board that its operations mandate the following:

- (1) the maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the

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organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of any person identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members;

(4) fair elections; and

(5) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) The Board may accept any of the following as evidence that a labor organization's operations meet the requirements of subsection (a) of this section:

(1) a statement in writing that the labor organization is a member of the American Federation of Labor-Congress of Industrial Organizations and is governed

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by and subscribes to the American Federation of Labor-Congress of Industrial Organizations Codes of Ethical Practice;

(2) a copy of the labor organization's constitution and by-laws which contain explicit provisions covering these standards;

(3) a copy of rules and regulations of the organization which have been officially adopted by the membership, which contain explicit provisions covering these standards; or

(4) an official certification in writing from a labor organization stating that the labor organization subscribes to the Standards of Conduct for Labor Organizations, as set forth in this section.

(c) The Board shall prescribe the rules and regulations needed to effect this section. Any complaint of a violation of this section shall be filed with the Board.

Sec. 1704. Unfair Labor Practices

(a) The District, its agents and representatives are prohibited from:

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(1) interfering, restraining or coercing any employee in the exercise of the rights guaranteed by this title;

(2) dominating, interfering or assisting in the formation, existence or administration of any labor organization, or contributing financial or other support to it, except that the District may permit employees to negotiate or confer with it during working hours without loss of time or pay;

(3) discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization, except as otherwise provided in this act;

(4) discharging or otherwise taking reprisal against an employee because he or she has signed or filed an affidavit, petition or complaint or given any information or testimony under this act; or

(5) refusing to bargain collectively in good faith with the exclusive representative;

(b) Employees, labor organizations, their agents or representatives are prohibited from:

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(1) interfering with, restraining or coercing any employees or the District in the exercise of rights guaranteed by this title;

(2) causing or attempting to cause the District to discriminate against an employee in violation of section 1706 of this title;

(3) refusing to bargain collectively in good faith with the District if it has been designated in accordance with this act as the exclusive representative of employees in an appropriate unit;

(4) engaging in a strike, or any other form of unauthorized work stoppage or slowdown, or in the case of a labor organization, its agents or representatives condoning any such activity by failing to take affirmative action to prevent or stop it; and

(5) engaging in a strike or refusal to handle goods or perform services, or threatening, coercing or restraining any person with the object of forcing or requiring any person to cease, delay or stop doing business with any other person or to force or to require an employer to recognize for recognition purposes a labor organization not recognized

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pursuant to the procedures set forth in section 1706 of this title.

Sec. 1705. Strikes Prohibited

It shall be unlawful for any District government employee or labor organization to participate in, authorize or ratify a strike against the District.

Sec. 1706. Employee Rights

(a) All employees shall have the right: (1) to organize a labor organization free from interference, restraint or coercion; (2) to form, join or assist any labor organization or to refrain from such activity; and (3) to bargain collectively through representatives of their own choosing as provided in this title.

(b) Notwithstanding any other provision in this act, an individual employee may present a grievance at any time to his or her employer without the intervention of a labor organization: PROVIDED, HOWEVER, That the exclusive representative is afforded an effective opportunity to be present and to offer its view at any meetings held to adjust the complaint. Any employee or employees who utilize this avenue of presenting personal complaints to the employer may not do so under the name, or by representation, of a labor

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organization. Adjustments of grievances must be consistent with the terms of the applicable collective bargaining agreement. Where the employee is not represented by the union with exclusive recognition for the unit, no adjustment of a grievance shall be considered as a precedent or as relevant either to the interpretation of the collective bargaining agreement or to the adjustment of other grievances.

Sec. 1707. Union Security; Dues Deduction

Any labor organization which has been certified as the exclusive representative shall, upon request, have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues. Such authorization, costs and termination shall be proper subjects of collective bargaining. Service fees may be deducted from an employee's salary by the employer if such a provision is contained in the bargaining agreement.

Sec. 1708. Management Rights; Matters Subject to Collective Bargaining

(a) The respective personnel authorities (management) shall retain the sole right, in accordance with applicable

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laws and rules and regulations: (1) to direct employees of the agencies; (2) to hire, promote, transfer, assign and retain employees in positions within the agency and to suspend, demote, discharge or take other disciplinary action against employees for cause; (3) to relieve employees of duties because of lack of work or other legitimate reasons; (4) to maintain the efficiency of the District government operations entrusted to them; (5) to determine the mission of the agency, its budget, its organization, the number of employees and the number, types and grades of positions of employees assigned to an organizational unit, work project or tour of duty, and the technology of performing its work; or its internal security practices; and (6) to take whatever actions may be necessary to carry out the mission of the District government in emergency situations.

(b) All matters shall be deemed negotiable except those that are proscribed by this title. Negotiations concerning compensation are authorized to the extent provided in section 1716 of this title.

**Sec. 1709. Unit Determination**

(a) The determination of an appropriate unit will be made on a case to case basis and will be made on the basis of a properly supported request from a labor organization.

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No particular type of unit may be predetermined by management officials nor can there by any arbitrary limit upon the number of appropriate units within an agency. The essential ingredient in every unit is community of interest: PROVIDED, HOWEVER, That an appropriate unit must also be one that promotes effective labor relations and efficiency of agency operations. A unit should include individuals who share certain interests such as skills, working conditions, common supervision, physical location, organization structure, distinctiveness of functions performed and the existence of integrated work processes. No unit shall be established solely on the basis of the extent to which employees in a proposed unit have organized, however, membership in a labor organization may be considered as one factor in evaluating the community of interest of employees in a proposed unit.

(b) A unit shall not be established if it includes the following:

(1) any management official or supervisor: EXCEPT, That with respect to firefighters, a unit that includes both supervisors and non-supervisors may be considered: PROVIDED, FURTHER, That supervisors employed by the District

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of Columbia Board of Education may form a unit which does not include non-supervisors;

- (2) a confidential employee;
- (3) an employee engaged in personnel work in other than a purely clerical capacity;
- (4) an employee engaged in administering the provisions of this title;
- (5) both professional and nonprofessional employees, unless a majority of the professional employees vote or petition for inclusion in the unit; or
- (6) employees of the Council of the District of Columbia.

(c) Two (2) or more units for which the labor organization holds exclusive recognition within an agency may be consolidated into a single larger unit if the Board determines the larger unit to be appropriate. The Board shall certify the labor organization as the exclusive representative in the new unit when the unit is found appropriate.

Sec. 1710. Selection of Exclusive Representatives;  
Elections

(a) Exclusive recognition shall be granted to a labor organization which has been selected by a majority of

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employees in an appropriate unit who participate in an election, conducted by secret ballot, or by any other method in conformity with such rules and regulations as may be prescribed by the Board.

(b)(1) The employer may recognize, without an election, a labor organization as the exclusive representative for purpose of collective bargaining if an alternative method for determining majority status, such as a card check showing actual membership in the labor organization seeking recognition, has been approved by the Board.

(2) The Board shall issue rules and regulations which provide procedures for decertification of exclusive representatives upon the request of thirty percent (30%) of the employees or the District and the holding of an election. Such rules and regulations issued by the Board shall prescribe the criteria under which the District may request decertification such as lack of any unit activity over a period of time.

(c) Representation elections shall be conducted by an impartial body selected by the mutual agreement of the parties or, in the absence of a mutual agreement, by the Board. The entity conducting the election shall be subject to the provisions of this act, those rules and regulations

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as may be issued by the Board, or any election agreement as may be reached which is not inconsistent with this title.

(d) The Board shall certify the results of each election within ten (10) working days after the final tally of votes, if:

(1) within the meaning of such rules and regulations as the Board may issue, no objection to the election is filed alleging that there has been conduct which affected the outcome of the election;

(2) the Board has determined that the number of challenged ballots is not sufficient to affect the outcome of the election.

(e) If the Board has reason to believe that such allegations or challenges may be valid, the Board shall hold a hearing on the matter within two (2) weeks after the date of receipt of the objection. The Board shall give due notice of the hearing to all parties. If the Board determines that the outcome of the election was affected, even by third party interference, or if the Board determines that the number of challenged ballots was sufficient to affect the outcome of the election, it shall require corrective action and may order a new election. If the

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Board determines that the alleged conduct did not affect the outcome of the election, it shall immediately certify the election results.

(f) A labor organization seeking exclusive recognition shall submit to the Board and the appropriate agency a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

Sec. 1711. Rights Accompanying Exclusive Recognition

(a) The labor organization which has been certified to be the exclusive representative of all employees in the unit shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to membership in the labor organization: PROVIDED, HOWEVER, That the employee pays dues or service fees in an amount equal to the dues of the employees' organizations. Agency shop and other labor organization security provisions should be an appropriate issue for collective bargaining.

(b) Bargaining units established at the time this act becomes effective shall continue to be recognized as appropriate units subject to section 1709(c) of this act.

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and labor organizations which have exclusive recognition in bargaining units existing at the time this act becomes effective shall continue to enjoy exclusive recognition in these units subject to section 1710(b)(2) of this act.

Sec. 1712. Sunshine Provisions

Collective bargaining sessions between the District and employee organization representatives shall not be open to the public. All fact finding proceedings under this title shall be open to the public.

Sec. 1713. Remedies, Enforcement and Judicial Review

(a) Remedies of the Board may include, but shall not be limited to, orders which: withdraw or decertify recognition of a labor organization; direct a new representation election; recommend that disciplinary action be taken against an employee or group of employees by an appropriate agency head; reinstate, with or without back pay, or otherwise make whole, the employment or tenure of any employee, who the Board finds has suffered adverse economic effects in violation of this title, though for adequate cause under the provisions of title XVI of this act; compel bargaining in good faith; compel a labor organization or the

District to desist from conduct prohibited under this title; or direct compliance with the provisions of this title.

(b) The Board may request the Superior Court of the District of Columbia to enforce any order issued pursuant to this title, including those for appropriate temporary relief or restraining orders. No defense or objection to an order of the Board shall be considered by the court, unless such defense or objection was first urged before the Board. The findings of the Board with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole. The court may grant such temporary relief or restraining order as it deems just and proper and enter a decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the Board.

(c) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain review of such order in the Superior Court of the District of Columbia by filing a request within thirty (30) days after the final order has been issued. The court shall have the same jurisdiction to review the Board's order and to grant to the Board such order of enforcement as in the

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case of a request by the Board under subsection (b) of this section.

(d) The Board shall have the authority to require the payment of reasonable costs incurred by a party to a dispute from the other party or parties as the Board may determine.

Sec. 1714. Timeliness of Decisions

All decisions of the Board shall be rendered within a reasonable period of time, and in no event, later than one hundred twenty (120) days after the matter is submitted or referred to it for a decision.

Sec. 1715. Collective Bargaining Agreements

(a) An agreement with a labor organization is subject to the approval of the Mayor or his or her designee, or in the case of employees of the District of Columbia Board of Education or the Board of Trustees of the University of the District of Columbia by the respective Boards. An agreement shall be approved within forty-five (45) days from the date of its execution by the parties, if it conforms to applicable law. If disapproved because certain provisions are asserted to be contrary to law, the agreement shall either be returned to the parties for renegotiation of the offensive provisions or such provisions shall be deleted.

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from the agreement. An agreement which has not been approved or disapproved within the prescribed period of forty-five (45) days shall go into effect on the forty-sixth day and shall be binding on the parties.

(b) The Mayor and each appropriate personnel authority shall submit the collective bargaining agreement to the Council for its information.

Sec. 1716. Collective Bargaining Concerning Compensation

(a) The Board shall provide for collective bargaining concerning compensation under the procedures of and on the dates provided in section 1113 of this act. The Mayor, the District of Columbia Board of Education for its educational employees and the Board of Trustees of the University of the District of Columbia for its educational employees shall negotiate agreements regarding non-compensation issues at the same time as compensation issues.

(b) The provisions of this section shall become effective on January 1, 1980, and shall apply to all employees, including employees described in section 204 of this act, of a particular occupational group who are represented by a labor organization which has been granted

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exclusive recognition under this act by the Board. The determination of an appropriate unit for the purpose of negotiations concerning compensation shall not require a request from a labor organization. In determining appropriate bargaining units for negotiations concerning compensation, the Board shall authorize broad units of occupational groups so as to minimize the number of different pay systems or schemes. The Board may authorize bargaining by multiple employer or employee groups as may be appropriate.

## TITLE XVIII

### EMPLOYEE CONDUCT

#### Sec. 1801. Standards of Conduct

(a) Each employee of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(b) The Mayor shall issue rules and regulations governing the ethical conduct of all District employees, after consultation with the District of Columbia Board of

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Education, the Board of Trustees of the University of the District of Columbia and recognized labor representatives of District employees, and shall require the submission by designated employees at a policy making, contract negotiating or purchasing level of reports of financial interest in matters which may create conflicts of interest. The Mayor shall provide for the annual auditing of all reports filed under the authority of this subsection.

Sec. 1802. Conflicts of Interest

No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflict or would appear to conflict with the fair, impartial and objective performance of officially assigned duties and responsibilities.

Sec. 1803. Ethics Counselors; Codification of Advisory Opinions

(a) Each agency head shall appoint an employee to serve as the ethics counselor for the agency. Employees so appointed shall be required to undertake and satisfactorily complete such training as is necessary in order to adequately discharge their duties. The training program

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required by this subsection shall be developed by the Mayor after consultation with the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia and the District of Columbia Board of Elections and Ethics. The Mayor shall appoint an ethics counselor for the District of Columbia.

(b) Ethics counselors shall issue advisory opinions concerning potential conflicts of interest which are presented by employees of the agency for resolution. The ethics counselor shall issue an advisory opinion within fifteen (15) days of receipt of an inquiry from an employee.

(c) The opinions authorized pursuant to this section shall be considered advisory opinions authorized under subsection (c) of section 306 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (D.C. Law I-126; D.C. Code, sec. 1-1156(c)), and shall be published in the District of Columbia Register.

(d) All oral communications between employees of an agency and ethics counselors shall be privileged communications, and may not form the basis for any civil or criminal liability. Ethics counselors shall not disclose the nature or contents of such communications, except in

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accordance with the provisions of subsection (c) of this section.

(e) The Mayor, the Chairman and each Member of the Council, the President and each Member of the Board of Education, members of boards and commissions as provided in subsection (b) of section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (88 Stat. 468; D.C. Code, sec. 1-1182(b)), employees in the Executive Service and persons appointed under the authority of sections 901 through 903 of this act or designated in section 908 of this act shall not be included within the provisions of this title for the purposes of enforcement. Enforcement of this title and provisions of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (88 Stat. 477; D.C. Code, sec. 1-1121 et seq.) for persons included in this section shall be enforced by the District of Columbia Board of Elections and Ethics as provided in the Act entitled "An Act To regulate the election of delegates representing the District of Columbia to national political conventions and for other purposes", approved August 12, 1955 (59 Stat. 699; D.C. Code, sec. 1-1101 et seq.) and the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (88 Stat. 447; D.C. Code, sec. 1-1121 et seq.)

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TITLE XIX

INCENTIVE AWARDS

Sec. 1901. Authority to Grant Awards

(a) The Mayor and the District of Columbia Board of Education shall issue rules and regulations authorizing the granting of cash and honorary awards to employees for their suggestions, inventions, superior accomplishments, length of service and other meritorious efforts which contribute to the efficiency, economy or otherwise improve the operation of the District government.

(b) The Mayor is authorized to make honorary awards to citizens who make significant contributions to the public good, or who submit ideas or inventions which materially benefit the District of Columbia.

Sec. 1902. Limitation upon Awards

A cash award authorized under the provisions of subsection (a) of section 1901 of this title may not exceed five thousand dollars (\$5000): EXCEPT, That in the case of suggestions or inventions resulting in a tangible monetary savings, awards should be based on a percentage formula of

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the estimated savings not to exceed twenty-five thousand dollars (\$25,000).

TITLE XX

SAFETY AND HEALTH

Sec. 2001. Policy

It shall be the policy of the District of Columbia government to establish and maintain a comprehensive occupational safety and health management program that ensures, to the maximum extent possible, a safe and healthful work environment for employees and general public users of District government facilities, and for the protection of District government property.

Sec. 2002. Extent of Title's Coverage

The occupational safety and health management program shall encompass all aspects of the total work environment throughout the District government, and shall include, but not be limited to: (1) employee safety and health, inclusive of physical welfare at the work site and environmental control of occupational diseases; (2) fire safety; (3) motor vehicle safety; (4) safety of non-employee

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users of city facilities and services; (5) contractor safety; and (6) protection of District government property.

Sec. 2003. Minimal Standards Applicable

Safe and healthful conditions shall be provided all employees of the District government in accordance with applicable standards, codes, rules and regulations, and shall be consistent with the occupational safety and health standards promulgated by the United States Department of Labor under the provisions of the Occupational Safety and Health Act of 1970, approved December 29, 1970, as amended (84 Stat. 1590), and applicable codes, rules and regulations including, but not limited to: (1) the D.C. Minimum Wage and Industrial Safety Board occupational safety and health standards (11B D.C.R.R.); (2) the D.C. Building Code (D.C. Law 2-18); (3) the D.C. Electrical Code (D.C. Law 2-17); (4) the D.C. Fire Code (7 D.C.R.R.); and (5) the D.C. Plumbing Code (5C-2, D.C.R.R.)

Sec. 2004. Authority

The Mayor shall issue rules and regulations consistent with this title and such laws of the federal government and the District of Columbia as they may, from time to time, be amended for the establishment, operation and administration of the District government's occupational safety and health

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management program. Programs and procedures developed under the authority of this title are appropriate matters for collective bargaining with labor organizations.

The Mayor shall ensure, through audits and inspections, compliance with this title and the rules and regulations issued pursuant thereto, and shall direct that appropriate remedial or corrective action be taken when it is determined that noncompliance has occurred.

Sec. 2005. Employee Rights

Employees shall be protected against penalty or reprisal for reporting an unsafe or unhealthful working condition or practice, or assisting in the investigation of such condition or practice.

Sec. 2006. Training

The Mayor shall provide for the establishment and supervision of programs, as may be necessary to comply with the provisions of this title, for the education and training of employees in the recognition, avoidance and prevention of unsafe and unhealthful working conditions and practices.

Sec. 2007. Health Services

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The Mayor shall establish an employee health services program which shall provide for the following: (a) treatment of on-the-job injuries and illness requiring emergency treatment; (b) pre-employment and other physical examinations, including fitness-for-duty examinations; (c) a counseling program for "troubled employees"; and (d) preventive programs relating to health. In developing and implementing a health services program consistent with the provisions of this title, maximum use shall be made of existing District government medical and health services facilities, resources and expertise.

Sec. 2008. Records

Each agency shall keep adequate records of all occupational accidents and illnesses occurring within the agency for proper evaluation and necessary corrective action and make statistical or other reports as the Mayor may require by rules and regulations.

TITLE XXI

HEALTH BENEFITS

Sec. 2101. Federal Health Benefits

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The health insurance benefit provisions of chapter 89 of Title 5 of the U.S. Code are applicable to all employees of the District government, except those specifically excluded by law or rule and regulation. Procedures established for administering the health benefits program with the District government shall be consistent with law and civil service rules.

## TITLE XXII

### LIFE INSURANCE; BENEFIT PROGRAM STUDY

#### Sec. 2201. Federal Life Insurance Benefits

The Life Insurance benefits provisions of chapter 87 of Title 5 of the U.S. Code shall apply to all employees of the District government, except those specifically excluded by law or rule and regulation. Procedures established for administering the life insurance benefits program within the District government shall be consistent with law and civil service rules.

#### Sec. 2202. Benefit Program Study

Within eighteen (18) months after the effective date of this act, the Mayor shall transmit a study to the Council concerning development of a program of disability income

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protection to be made available to employees through collective bargaining and a program of low cost legal services for employees.

### TITLE XXIII

#### DISABILITY COMPENSATION

##### Sec. 2301. Definitions

For the purpose of sections 2301 through 2345 of this title:

(a) The term "employee" means:

(1) a civil officer or employee in any branch of the District of Columbia government, including an officer or employee of an instrumentality wholly owned by the District of Columbia government;

(2) an individual rendering personal service to the District of Columbia government similar to the service of a civil officer or employee of the District of Columbia, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or authorizes payment of travel or other expenses of the individual, but does not include a member of the Metropolitan Police Department or

the Fire Department of the District of Columbia who is pensioned or pensionable under section 12(r) of the Policeman and Firemen's Retirement and Disability Act, as amended (71 Stat. 39; D.C. Code, secs. 4-521 through 4-535); and

(3) an individual selected pursuant to chapter 121 of Title 28 of the United States Code and serving as a petit or grand juror and who is otherwise an employee for the purposes of this title as defined by paragraphs (1) and (2) of this subsection;

(b) The term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by law. The term "physician" includes chiropractors only to the extent that their reimbursible services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist, and subject to rules and regulations issued by the Mayor;

(c) The term "medical, surgical, and hospital services and supplies" includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals

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within the scope of their practice as defined by District or state law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine, to correct a subluxation as demonstrated by x-ray to exist, and subject to rules and regulations issued by the Mayor;

(d) The term "monthly pay" means the monthly pay at the time of injury or the monthly pay at the time disability begins or the monthly pay at the time compensable disability recurs if the recurrence begins more than six (6) months after the injured employee resumes regular full-time employment with the District, whichever is greater, except when otherwise determined under section 2313 of this title with respect to any period;

(e) The term "injury" includes, in addition to injury by accident, a disease proximately caused by the employment and damage to or destruction of medical braces, artificial limbs and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired: EXCEPT, That eyeglasses and hearing aids would not be replaced, repaired or otherwise compensated for, unless the damage or destruction is incident to a personal injury requiring medical services;

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(f) The term "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(g) The term "parent" includes stepparents and parents by adoption;

(h) The terms "brother" and "sister" mean one who at the time of the death of the employee is under eighteen (18) years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters and brothers and sisters by adoption, but does not include married brothers or married sisters;

(i) The term "child" means one who at the time of the death of the employee is under eighteen (18) years of age or over that age and incapable of self-support, and includes stepchildren, adopted children and posthumous children, but does not include married children;

(j) The term "grandchild" means one who at the time of the death of the employee is under eighteen (18) years of age or over that age and incapable of self-support;

(k) The term "widower" means the husband living with or dependent for support on the decedent at the time of her

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death, or living apart for reasonable cause or because of her desertion;

(l) The term "compensation" includes the money allowance payable to an employee or his or her dependents and any other benefits paid for from the Employees' Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(m) The term "student" means an individual under twenty-three (23) years of age who has not completed four (4) years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(1) a school, college or university operated or directly supported by the United States, by the District, by a state or local government or political subdivision thereof;

(2) a school, college or university which has been accredited by the District, by a state, by a state-recognized or nationally-recognized accrediting agency or body;

(3) a school, college or university not so accredited but whose credits are accepted on transfer, by at

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least three (3) institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(4) an additional type of educational or training institution as defined by the Mayor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four (4) months and if he or she shows, to the satisfaction of the Mayor, that he or she has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Mayor, he or she is prevented by factors beyond his or her control from pursuing his or her education. A student whose twenty-third (23rd) birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period;

(n) The term "Price Index" means the Consumer Price Index (all items - United States city average) published monthly by the Bureau of Labor Statistics;

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(c) The term "base month" means the month of July 1966 and each later month which is used as a basis for calculating an increase under section 2341 of this title; and

(d) The term "organ" means a part of the body that performs a special function, and for purposes of this title excludes the brain, heart and back.

Sec. 2302. Compensation for Disability or Death of Employee

The District of Columbia government shall pay compensation as specified by this title for the disability or death of an employee resulting from personal injury sustained while in the performance of his or her duty, unless the injury or death is:

- (1) caused by willful misconduct of the employee;
- (2) caused by the employee's intention to bring about the injury or death of himself or herself or of another; or
- (3) proximately caused by the intoxication of the injured employee.

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Sec. 2303. Medical Services and Initial Medical and Other Benefits

(a) The District government shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Mayor considers likely to cure, give relief, reduce the degree or period of disability or aid in lessening the amount of the monthly compensation. These services, appliances and supplies shall be furnished:

(1) whether or not disability has arisen;

(2) notwithstanding that the employee has accepted or is entitled to receive benefits under subchapter III of chapter 83 of Title 5 of the U.S. Code, or another retirement system for employees of the District or federal government; and

(3) by or on the order of District of Columbia government medical officers and hospitals, or, at the employee's option, by or on order of physicians and hospitals designated or approved by the Mayor.

The employee may initially select a physician to provide medical services, appliances, supplies in accordance with

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such rules and regulations and instructions as the Mayor considers necessary, and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances and supplies. These expenses, when authorized or approved by the Mayor, shall be paid from the Employees' Compensation Fund.

(b) The Mayor, under such limitations or conditions as he or she considers necessary, may authorize the employing agencies to provide for the initial furnishing of medical and other benefits under this section. The Mayor may certify vouchers for these expenses out of the Employees' Compensation Fund when the immediate superior of the employee certifies that the expense was incurred in respect to an injury accepted by the employing agency as properly compensable under this title. The Mayor shall prescribe the form and content of the certificate.

Sec. 2304. Vocational Rehabilitation

(a) The Mayor may direct a permanently disabled individual whose disability is compensable under this title to undergo vocational rehabilitation. The Mayor shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Mayor, insofar as practicable, shall use the services or facilities

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of the District of Columbia government. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund.

(b) Notwithstanding section 2305 of this title, individuals directed to undergo vocational rehabilitation by the Mayor, while undergoing such rehabilitation, shall receive compensation at the rate provided in sections 2305 and 2310 of this title, less the amount of any earnings received from remunerative employment other than employment undertaken pursuant to such rehabilitation.

Sec. 2305. Total Disability

(a) If the disability is total, the District of Columbia government shall pay the employee during the disability monthly monetary compensation equal to sixty-six and two-thirds percent (66 2/3%) of his or her monthly pay, which shall be known as his or her basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs or the loss of sight of both eyes is prima facie permanent total disability.

Sec. 2306. Partial Disability

(a) If the disability is partial, the District of Columbia government shall pay the employee during the disability monthly monetary compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between his or her monthly pay and his or her monthly wage-earning capacity after the beginning of the partial disability. This shall be known as his or her basic compensation for partial disability.

(b) The Mayor may require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Mayor specifies. The employee shall include in the affidavit or report the value of housing, board, lodging and other advantages which are part of his or her earnings in employment or self-employment and which can be estimated in money. An employee who does the following:

(1) fails to make an affidavit or report when required; or

(2) knowingly omits or understates any part of his or her earnings, forfeits his or her right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the

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compensation payable to the employee or otherwise recovered under section 2329 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who does the following:

- (1) refuses to seek suitable work;
- (2) refuses to undergo suitable vocational rehabilitation; or
- (3) refuses or neglects to work after suitable work is offered to, procured by or secured for him or her, is not entitled to compensation and such payment shall be suspended.

Sec. 2307. Compensation Schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of sixty-six and two-thirds percent (66 2/3%) of his or her monthly pay. The basic compensation shall be:

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(1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) payable regardless of whether the disability also involves another impairment of the body; and

(3) in addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by the following:

(1) section 2305 of this title, if the disability is total; or

(2) section 2306 of this title, if the disability is partial.

(c) The compensation schedule is as follows:

(1) arm lost, three hundred twelve (312) weeks' compensation;

(2) leg lost, two hundred eighty-eight (288) weeks' compensation;

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(3) hand lost, two hundred forty-four (244) weeks' compensation;

(4) foot lost, two hundred five (205) weeks' compensation;

(5) eye lost, one hundred six (106) weeks' compensation;

(6) thumb lost, seventy-five (75) weeks' compensation;

(7) first finger lost, forty-six (46) weeks' compensation;

(8) great toe lost, thirty-eight (38) weeks' compensation;

(9) second finger lost, thirty (30) weeks' compensation;

(10) third finger lost, twenty-five (25) weeks' compensation;

(11) toe other than great toe lost, sixteen (16) weeks' compensation;

(12) fourth finger lost, fifteen (15) weeks' compensation;

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(13) loss of hearing:

- (A) complete loss of hearing of one ear, fifty-two (52) weeks' compensation; or
- (B) complete loss of hearing of both ears, two hundred (200) weeks' compensation;

(14) compensation for loss of binocular vision or for loss of eighty percent (80%) or more of the vision of any eye is the same as for loss of the eye;

(15) compensation for loss of more than one (1) phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half (1/2) of the compensation for loss of the entire digit;

(15) if, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively;

(17) compensation for loss of use of two (2) or more digits or one (1) or more phalanges of each of two (2) or more digits of a hand or foot, is proportioned to the loss of the use of the hand or foot occasioned thereby;

(18) compensation for permanent total loss of use of a member is the same as for loss of the member;

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(19) compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction;

(20) in case of loss of use of more than one (1) member or parts of more than one (1) member as enumerated by this schedule, the compensation is for loss of the use of each member or part thereof and the awards run consecutively. When the injury affects only two (2) or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears;

(21) for serious disfigurement of the face, head or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed three thousand five hundred dollars (\$3,500) shall be awarded in addition to any other compensation payable under this schedule;

(22) for permanent loss or loss of use of any other important external or internal organ of the body, as determined by the Mayor, proper and equitable compensation not to exceed three hundred twelve (312) weeks for each

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organ so determined shall be paid in addition to any other compensation payable under this schedule.

Sec. 2308. Reduction of Compensation for Subsequent Injury to Same Member

The period of compensation payable under the schedule in section 2307 of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if:

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Mayor finds that compensation payable for the later disability, in whole or in part, would duplicate the compensation payable for the preexisting disability.

In such a case, compensation for disability continuing after the scheduled period starts on the expiration of that period as reduced under this section.

Sec. 2309. Beneficiaries of Awards Unpaid at Death; or of Precedence

(a) If an individual:

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- (1) has sustained disability compensable under section 2307(a) of this title;
- (2) has filed a valid claim in his or her lifetime; and
- (3) dies from a cause other than the injury before the end of the period specified by the schedule; the compensation specified by the schedule that is unpaid at his or her death, whether or not accrued or due at his or her death, shall be paid:
- (A) under an award made before or after the death;
- (B) for the period specified by the schedule;
- (C) to and for the benefit of the persons then in being within the classes and on the conditions and in proportions specified by this section; and
- (D) in the following order of precedence:
- (i) if there is no child, to the widow or widower.
- (ii) if there are both a widow or widower and a child or children, one-half (1/2) to

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the widow or widower and one-half (1/2) to the child or children.

(iii) if there is no widow or widower, to the child or children.

(iv) if there is no survivor in the above classes, to the parent or parents completely or partially dependent for support on the decedent, or to other completely dependent relatives listed by section 2333 of this title, or to both in proportions provided by rules and regulations.

(v) if there is no survivor in the above classes and no burial allowance is payable under section 2334 of this title, an amount not exceeding that which would be expendable under section 2334 of this title, if applicable, shall be paid to reimburse a person equitably entitled thereto the extent and in the proportion that he or she has paid the burial expenses: EXCEPT, That a compensated insurer or other person obligated by law or contract to pay the burial expenses or a state or political subdivision or entity is deemed not equitably entitled to such reimbursement.

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(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability specified by section 2307 of this title even if at the time of death the individual was entitled to the augmented rate specified by section 2310 of this title.

(c) A surviving beneficiary under subsection (a) of this section, except one under clause (v) of subparagraph (D) of paragraph (3) of subsection (a) of this section, does not have a vested right to payment and must be alive to receive payment.

(d) A beneficiary under subsection (a) of this section, except one under clause (v) of subparagraph (D) of paragraph (3) of subsection (a) of this section, ceases to be entitled to payment on the happening of an event which would terminate his or her right to compensation for death under section 2333 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

Sec. 2310. Augmented Compensation for Dependents

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(a) For the purpose of this section, "dependent" means the following:

(1) a spouse, if:

(A) he or she is a member of the same household as the employee; or

(B) he or she is receiving regular contributions from the employee for his or her support; or

(C) the employee has been ordered by a court to contribute to his or her support;

(2) an unmarried child, while living with the employee or receiving regular contributions from the employee toward his or her support, and who is:

(A) under eighteen (16) years of age; or

(B) over eighteen (18) years of age and incapable of self-support because of physical or mental disability; and

(3) a parent, while wholly dependent on and supported by the employee.

Notwithstanding paragraph (3) of this subsection, compensation payable for a child that would otherwise end

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because the child has reached eighteen (18) years of age shall continue if he or she is a student as defined by section 2301 of this title at the time he or she reaches eighteen (18) years of age for so long as he or she continues to be such a student or until he or she marries.

(b) A disabled employee with one (1) or more dependents is entitled to have his or her basic compensation for disability augmented:

(1) at the rate of eight and one-third percent (8 1/3%) of his or her monthly pay if that compensation is payable under sections 2305 or 2307(a) of this title; or

(2) at the rate of eight and one third percent (8 1/3%) of the difference between his or her monthly pay and his or her monthly wage-earning capacity if that compensation is payable under section 2306 of this title.

Sec. 2311. Additional Compensation for Services of Attendants or Vocational Rehabilitation

(a) The Mayor may pay an employee who has been awarded compensation an additional sum of not more than five hundred dollars (\$500) a month, as he or she considers necessary, when he or she finds that the service of an attendant is necessary constantly because the employee is totally blind

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or has lost the use of both hands or both feet or is paralyzed and unable to walk or because of another disability resulting from the injury making him or her so helpless as to require constant attendance.

(b) The Mayor may pay an individual undergoing vocational rehabilitation under section 2304 of this title additional compensation necessary for his or her maintenance, but not to exceed two hundred dollars (\$200) a month.

Sec. 2312. Maximum and Minimum Monthly Payments

Except as provided by section 2338 of this title, the monthly rate of compensation for disability, including augmented compensation under section 2310 of this title, but not including additional compensation under section 2311 of this title, may not be more than seventy-five percent (75%) of the monthly pay of the maximum rate of basic pay for GS-15 as provided in section 5332 of Title 5 of the U.S. Code or its equivalent as provided in title XI of this act. In case of total disability the monthly rate of compensation may not be less than seventy-five percent (75%) of the monthly pay of the minimum rate of basic pay for GS-2 as provided in section 5332 of Title 5 of the U.S. Code or its equivalent as provided in title XI of this act, or the

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amount of the monthly pay of the employee, whichever is less.

Sec. 2313. Increase or Decrease of Basic Compensation

(a) If an individual:

(1) was a minor or employed in a learner's capacity at the time of injury; or

(2) was not physically or mentally handicapped before the injury, the Mayor, on review under section 2328 of this title after the time the wage-earning capacity of the individual would probably have increased but for the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable increased wage-earning capacity.

(b) If an individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed under section 2304 of this title, the Mayor may suspend the monetary compensation of the individual until the individual, in good faith, complies with the directions of the Mayor.

Sec. 2314. Computation of Pay

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(a) For the purpose of this section:

(1) The term "overtime pay" means pay for hours of service in excess of a statutory or other basic workweek or other basic unit of worktime, as observed by the employing establishment; and

(2) The term "year" means a period of twelve (12) calendar months, or the equivalent thereof as specified by rules and regulations prescribed by the Mayor.

(b) In computing monetary compensation for disability or death on the basis of monthly pay, that pay is determined under this section.

(c) The monthly pay at the time of injury is deemed one-twelfth (1/12) of the average annual earnings of the employee at that time. When compensation is paid on a weekly basis, the weekly equivalent of the monthly pay is deemed one-fifty-second (1/52) of the average annual earning. For so much of a period of total disability as does not exceed ninety (90) calendar days from the date of the beginning of compensable disability, the compensation, at the discretion of the Mayor, may be computed on the basis of the actual daily wage of the employee at the time of

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injury, in which event he or she may receive compensation for the days he or she would have worked but for the injury.

(d) Average annual earnings are determined as follows:

(1) If the employee worked in the position in which he or she was employed at the time of his or her injury during substantially the whole year immediately preceding the injury and the employment was in a position for which an annual rate of pay:

(A) was fixed, the average annual earnings are the annual rate of pay; or

(B) was not fixed, the average annual earnings are the product obtained by multiplying his or her daily wage for the particular employment or the average thereof, if the daily wage has fluctuated; by three hundred (300), if he or she was employed on the basis of a six (6) day workweek; two hundred eighty (280), if employed on the basis of a five and one-half (5 1/2) day workweek; and two hundred sixty (260), if employed on the basis of a five (5) day workweek.

(2) If the employee did not work in the position in which he or she was employed at the time of his or her injury during substantially the whole year immediately

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preceding the injury, but the position was one which would have afforded employment for substantially a whole year, the average annual earnings are a sum equal to the average annual earnings of an employee of the same class working substantially the whole immediately preceding year in the same or similar employment with the District government, as determined under paragraph (1) of this subsection.

(3) If either of the foregoing methods of determining the average annual earnings cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the injured employee in the employment in which he or she was working at the time of the injury having regard to the previous earnings of the employee in District of Columbia government employment, and of other employees of the District of Columbia government in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee or other relevant factors. The average annual earnings may not be less than one hundred fifty (150) times the average daily wage the employee earned in the employment during the days employed within one (1) year immediately preceding his or her injury.

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(4) If the employee served without pay or a nominal pay, paragraphs (1), (2) and (3) of this subsection apply, as far as practicable, but the average earnings of the employee may not exceed the minimum rate of basic pay for GS-15 as provided in section 5332 of Title 5 of the U.S. Code or its equivalent as provided in title XI of this act. If the average annual earnings cannot be determined reasonably and fairly in the manner otherwise provided by this section, the average annual earnings shall be determined at the reasonable value of the service performed but not in excess of three thousand six hundred dollars (\$3,600) a year.

(e) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money and premium pay under section 5545(c)(1) of Title 5 of the U. S. Code, are included as part of the pay, but account is not taken of the following:

(1) overtime pay;

(2) additional pay or allowance authorized outside the District of Columbia government because of differential in cost of living or other special circumstances; or

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(3) bonus or premium pay for extraordinary service including bonus or pay for particularly hazardous service.

**Sec. 2315. Determination of Wage-Earning Capacity**

(a) In determining compensation for partial disability, except permanent partial disability compensable under sections 2307 and 2309 of this title, the wage-earning capacity of an employee is determined by his or her actual earnings, if his or her actual earnings fairly and reasonably represent his or her wage-earning capacity. If the actual earnings of the employee do not fairly and reasonably represent his or her wage-earning capacity or if the employee has no actual earnings, his or her wage-earning capacity as appears reasonable under the circumstances is determined with due regard to the following:

- (1) the nature of his or her injury;
- (2) the degree of physical impairment;
- (3) his or her usual employment;
- (4) his or her age;
- (5) his or her qualifications for other employment;
- (6) the availability of suitable employment; and

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(7) other factors or circumstances which may affect his or her wage-earning capacity in his or her disabled condition.

(b) Section 2314 of this title is applicable in determining the wage-earning capacity of an employee after the beginning of partial disability.

Sec. 2316. Limitation of Right to Receive Compensation

(a) While an employee is receiving compensation under this title or if he or she has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, he or she may not receive salary, pay or remuneration of any type from the District of Columbia, except:

(1) in return for service actually performed;  
(2) pension for service in the Army, Navy or Air Force;

(3) other benefits administered by the Veterans Administration unless such benefits are payable for the same injury or the same death; and

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(4) retired pay, retirement pay, retainer pay or equivalent pay for service in the Armed Forces or other uniformed services, subject to the reduction of such pay in accordance with section 5532 of Title 5 of the U.S. Code. Eligibility for or receipt of benefits under subchapter II of chapter 83 of Title 5 of the U.S. Code or another retirement or disability system for employees of the government does not impair the right of the employee to compensation for scheduled disabilities specified by subsection (c) of section 2307 of this title.

(b) An individual entitled to benefits under this title because of his or her injury, or because of the death of an employee who also is entitled to receive from the District of Columbia government under a provision of a statute, other than this title, payment or benefits for that injury or death (except proceeds of an insurance policy purchased entirely by employee contributions), because of service by him or her (or in the case of death, by the deceased) as an employee or in the Armed Forces, shall elect which benefits he or she will receive. The individual shall make the election within one (1) year after the injury or death or within a further time allowed for good cause by the Mayor. The election when made is irrevocable, except as otherwise provided by statute.

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(c) The liability of the District of Columbia government or an instrumentality thereof, under this title or any extension thereof with respect to the injury or death of an employee, is exclusive and instead of all other liability of the District of Columbia government or the instrumentality to the employee, his or her legal representative, spouse, dependents, next of kin and any other person otherwise entitled to recover damages from the District of Columbia or the instrumentality because of the injury or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a federal tort liability statute. This title does not apply to a master or a member of a crew of a vessel.

Sec. 2317. Time of Accrual of Right

(a) An employee is not entitled to compensation or continuation of pay as provided in section 2318 of this title for the first two (2) days of temporary disability which would have otherwise been workdays for the employee, except:

(1) when the disability exceeds fourteen (14) calendar days;

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(2) when the disability is followed by permanent disability; or

(3) as provided by sections 2303 and 2304 of this title.

(b) An employee may use annual or sick leave to his or her credit at the time the disability begins but the time period specified in subsection (a) of this section does not begin to run until the use of annual or sick leave ends.

Sec. 2318. Continuation of Pay; Election to Use Annual or Sick Leave

(a) The District of Columbia government shall authorize the continuation of pay of an employee, as defined in paragraph (1) of section 2301 of this title (other than those referred to in subparagraph (B), who has filed a claim for a period of wage loss due to a traumatic injury with his or her immediate superior on a form approved by the Mayor within the time specified in paragraph (2) of subsection (a) of section 2322 of this title.

(b) Continuation of pay under this title shall be furnished:

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(1) unless controverted under rules and regulations of the Mayor;

(2) for a period not to exceed forty-five (45) days; and

(3) under accounting procedures and such other rules and regulations as the Mayor may require.

(c) If a claim under subsection (a) of this section is denied by the Mayor, payments under this section, at the option of the employee, shall be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of section 5584 of Title 5 of the U.S. Code or equivalent provisions of this act.

(d) Payments under this section shall not be considered compensation as defined by subsection (1) of section 2301 of this title.

Sec. 2319. Notice of Injury or Death

An employee injured in the performance of his or her duty, or someone on his or her behalf, shall give notice thereof. Notice of a death believed to be related to the employment shall be given by an eligible beneficiary

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specified in section 2333 of this title, or someone on his  
or her behalf. A notice of injury or death shall:

- (a) be given within thirty (30) days after the injury or death;
- (b) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;
- (c) be in writing;
- (d) state the name and address of the employee;
- (e) state the year, month, day, hour when and the particular locality where the injury or death occurred;
- (f) state the cause and nature of the injury, or in the case of death, the employment factors believed to be the cause;
- (g) be signed by and contain the address of the individual giving the notice; and
- (h) be accompanied by a form approved by the Mayor authorizing access to all related medical and earnings data concerning the claimant.

Sec. 2320. Report of Injury

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Immediately after an injury to an employee which results in his or her death or probable disability, his or her immediate superior shall report to the Mayor. The Mayor may:

(a) prescribe the information that the report shall contain;

(b) require the immediate superior to make supplemental reports; and

(c) obtain such additional reports and information from employees as are agreed on by the Mayor and the head of the employing agency.

Sec. 2321. Claim

Compensation under this title may be allowed only if an individual or someone on his or her behalf makes claim therefor. The claim shall:

(a) be made in writing within the time specified by section 2322 of this title;

(b) be delivered to the office of the Mayor or to an individual whom the Mayor may designate by rules and regulations, or deposited in the mail properly stamped and addressed to the Mayor or his or her designee;

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- (c) be on a form approved by the Mayor;
- (d) contain all information required by the Mayor;
- (e) be sworn to by the individual entitled to compensation or someone on his or her behalf; and
- (f) except in case of death, be accompanied by a certificate of the physician of the employee stating the nature of the injury and the nature and probable extent of the disability. The Mayor may waive paragraphs (3) through (6) of this section for reasonable cause shown.

Sec. 2322. Time for Making Claim

- (a) An original claim for compensation for disability or death must be filed within three (3) years after the injury or death. Compensation for disability or death, including medical care in a disability case, may not be allowed if claim is not filed within that time unless:

- (1) the immediate superior has actual knowledge of the injury or death within thirty (30) days. The knowledge must be such to put the immediate superior reasonably on notice of an on the job injury or death; or

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(2) written notice of injury or death as specified in section 2319 of this title was given within thirty (30) days.

(b) In a case of latent disability, the time for filing a claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability to his or her employment. In such a case, the time for giving notice of injury begins to run when the employee is aware, or by the exercise of reasonable diligence, should have been aware that his or her condition is causally related to his or her employment, whether or not there is a compensable disability.

(c) The timely filing of a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury.

(d) The time limitations in subsections (a) and (b) of this section do not:

(1) begin to run against a minor until he or she reaches eighteen (18) years of age or has had a legal representative appointed; or

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(2) run against an incompetent individual while he or she is incompetent and has no duly appointed legal representative; or

(3) run against any individual whose failure to comply is excused by the Mayor on the ground that such notice could not be given because of exceptional circumstances.

Sec. 2323. Physical Examinations

(a) An employee shall submit to examination by a medical officer of the District of Columbia government or by a physician, designated or approved by the Mayor, after the injury and as frequently and at the times and places as may be reasonably required. The employee may have a physician designated and paid by him or her present to participate in the examination. If there is disagreement between the physician making the examination for the District of Columbia government and the physician of the employee, the Mayor shall appoint a third physician who shall make an examination.

(b) An employee is entitled to be paid expenses incident to an examination required by the Mayor which, in the opinion of the Mayor, are necessary and reasonable.

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including transportation and loss of wages incurred in order to be examined. The expenses, when authorized or approved by the Mayor, are paid from the Employees' Compensation Fund.

(c) The Mayor shall fix the fees for examinations under this section by physicians not employed by or under contract to the District of Columbia government to furnish medical services to employees. The fees, when authorized or approved by the Mayor, are paid from the Employees' Compensation Fund.

(d) If an employee refuses to submit to or obstructs an examination, his or her right to compensation under this title is suspended until the refusal or obstruction stops. Compensation is not payable while a refusal or obstruction continues, and the period of the refusal or obstruction is deducted from the period for which compensation is payable to the employee.

Sec. 2324. Findings and Awards; Hearings

(a) The Mayor shall determine and make a finding of facts and make an award for or against payment of compensation under this title after the following:

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(1) considering the claim presented by the beneficiary and the report furnished by the immediate superior; and

(2) completing such investigation as the Mayor considers necessary.

(b)(1) Before review under subsection (a) of section 2328 of this title, a claimant for compensation not satisfied with a decision of the Mayor under subsection (a) of this section is entitled, on request made within thirty (30) days after the date of the issuance of the decision, to a hearing on his or her claim before a representative of the Mayor. At the hearing, the claimant is entitled to present evidence in further support of his or her claim. Within thirty (30) days after the hearing ends, the Mayor shall notify the claimant in writing of his or her further decision and any modifications of the award he or she may make and of the basis of his or her decision.

(2) In conducting the hearing, the representative of the Mayor is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, except as provided by this title, but may conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose, he or she shall receive

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such relevant evidence as the claimant adduces and such other evidence as he or she determines necessary or useful in evaluating the claim.

Sec. 2325. Misbehavior at Proceedings

If an individual does the following:

- (1) disobeys or resists a lawful order or process in proceedings under this title before the Mayor or his or her representative; or
- (2) misbehaves during a hearing or so near the place of hearing as to obstruct it, the Mayor or his or her representative shall certify the facts to the Superior Court of the District of Columbia. The court, in a summary manner, shall hear the evidence as to the acts complained of and, if the evidence warrants, punish the individual in the same manner and to the same extent as for a contempt committed before the court, or commit the individual on the same conditions as if the forbidden act has occurred with reference to the process of or in the presence of the court.

Sec. 2326. Subpoenas; Oaths; Examination of Witnesses

The Mayor, on any matter within his or her jurisdiction under this title, shall have the authority to:

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(1) issue subpoenas for and compel the attendance of witnesses within a radius of one hundred (100) miles of the District of Columbia;

(2) administer oaths;

(3) examine witnesses; and

(4) require the production of books, papers, documents and other evidence.

Sec. 2327. Representation; Attorneys; Fees

(a) A claimant may authorize an individual to represent him or her in any proceeding under this title before the Mayor.

(b) A claim for legal or other services furnished in respect to a case, claim or award for compensation under this title is valid only if approved by the Mayor.

Sec. 2328. Review of Award

(a) The Mayor may review an award for or against payment of compensation at any time on his or her own motion or on application. The Mayor, in accordance with the facts found on review, may:

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(1) end, decrease or increase the compensation previously awarded; or

(2) award compensation previously refused or discontinued.

(b) The action of the Mayor or his or her designee in allowing or denying a payment under this title may be reviewed by the Superior Court of the District of Columbia. Such decision of the Mayor may be affirmed, modified, revised or remanded in the discretion of the court. The decision of the Mayor shall be affirmed if supported by substantial competent evidence on the record. Credit shall be allowed in the accounts of a certifying or disbursing official for payment in accordance with that action.

Sec. 2329. Recovery of Overpayments

(a) When an overpayment has been made to an individual under this title because of an error of fact or law, adjustment shall be made under rules and regulations prescribed by the Mayor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this title with respect to the individual's death.

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(b) Adjustment or recovery by the District of Columbia government may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when:

(1) adjustment or recovery of the amount is waived under subsection (b) of this section; or

(2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

Sec. 2330. Assignment of Claim

An assignment of a claim for compensation under this title is void. Compensation and claims for compensation are exempt from claims of creditors.

Sec. 2331. Subrogation of the District of Columbia

(a) If an injury or death for which compensation is payable under this title is caused under circumstances creating a legal liability on a person other than the

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District of Columbia government to pay damages, the Mayor may require the beneficiary to do the following:

(1) assign to the District of Columbia government any right of action he or she may have to enforce the liability or any right he or she may have to share in money or other property received in satisfaction of that liability; or

(2) prosecute the action in his or her own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his or her own name when required by the Mayor is not entitled to compensation under this title.

(c) The Mayor may prosecute or compromise a cause of action assigned to the District of Columbia government. When the Mayor realizes on the cause of action, he or she shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payment of compensation.

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payable for the same injury. The beneficiary is entitled to not less than one-fifth (1/5) of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

Sec. 2332. Adjustment after Recovery from a Third Person

If an injury or death for which compensation is payable under this title is caused under circumstances creating a legal liability in a person other than the District of Columbia government to pay damages, and a beneficiary entitled to compensation from the District of Columbia government for that injury or death receives money or other property in satisfaction of that liability as a result of suit or settlement by him or her in his or her behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the District of Columbia government and credit any surplus on future payments of compensation payable to him or her for the same injury. No court, insurer, attorney or other person shall pay or distribute to the beneficiary or his or her designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the District of Columbia government. The amount refunded to the District of Columbia government shall be credited to the

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Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he or she shall credit the money or property on compensation payable to him or her by the District of Columbia government for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth (1/5) of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the District of Columbia government.

Sec. 2333. Compensation in Case of Death

(a) If death results from an injury sustained in the performance of duty, the District of Columbia government shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) to the widow or widower, if there is no child, fifty (50) percent;

(2) to the widow or widower, if there is a child, forty-five (45) percent and in addition fifteen (15)

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percent, for each child not to exceed a total of seventy-five (75) percent for the widow or widower and children;

(3) to the children, if there is no widow or widower, forty (40) percent for one (1) child and fifteen (15) percent additional for each additional child not to exceed a total of seventy-five (75) percent, divided among the children share and share alike;

(4) to the parents, if there is no widow, widower, or child, as follows:

(A) twenty (20) percent, if one (1) parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;

(B) twenty (20) percent to each, if both were wholly dependent; or

(C) a proportionate amount in the discretion of the Mayor if one (1) or both were partly dependent. If there is a widow, widower or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower and children, will not exceed a total of seventy-five (75) percent;

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(5) to the brothers, sisters, grandparents and grandchildren, if there is no widow, widower, child or dependent parent as follows:

(A) twenty (20) percent, if one (1) was wholly dependent on the employee at the time of death;

(B) thirty (30) percent, if more than one (1) was wholly dependent, divided among the dependents share and share alike; or

(C) ten (10) percent, if no one is wholly dependent but one (1) or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, child or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children and dependent parents, will not exceed a total of seventy-five (75) percent.

(b) The compensation payable under subsection (a) of this section is paid from the time of death until:

(1) a widow or widower dies or remarries before reaching age sixty (60);

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(2) a child, brother, sister or grandchild dies, marries or becomes eighteen (18) years of age or, if over age eighteen (18) and incapable of self-support, becomes capable of self-support; or

(3) a parent or grandparent dies, marries or ceases to be dependent.

Notwithstanding the provisions of paragraph (2) of this subsection, compensation payable to or for a child, a brother or sister or grandchild that would otherwise end because the child, brother or sister or grandchild has reached eighteen (18) years of age shall continue if he or she is a student as defined by section 2301 of this title at the time he or she reaches eighteen (18) years of age for so long as he or she continues to be such a student or until he or she marries. A widow or widower who is entitled to benefits under this title derived from more than one (1) husband or wife shall elect one (1) entitlement to be utilized.

(c) On the cessation of compensation under this section to or on the account of an individual, the compensation of the remaining individuals, entitled to compensation or the unexpired part of the period during which their compensation is payable, is that which they would have received if they

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had been the only individuals entitled to compensation at the time of the death of the employee.

(d) When there are two (2) or more classes of individuals entitled to compensation under this section and the apportionment of compensation under this section would result in injustice, the Mayor may modify the apportionment to meet the requirements of the case.

(e) In computing compensation under this section, the monthly pay is deemed not less than the minimum rate of basic pay for GS-2 as provided in section 5332 of Title 5 of the U.S. Code or its equivalent as provided in title XI of this act. The total monthly compensation may not exceed:

(1) the monthly pay computed under section 2314 of this title, except for increases authorized by section 2341 of this title; or

(2) seventy-five (75) percent of the maximum monthly rate of basic pay for GS-15 as provided in section 5332 of Title 5 of the U.S. Code or its equivalent as provided in title XI of this act.

(f) Notwithstanding any funeral and burial expenses paid under section 2334 of this title, there shall be paid a sum of two hundred dollars (\$200) to the personal representative

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of a deceased employee within the meaning of paragraph (1) of subsection (a) of section 2301 of this title for reimbursement of the costs of termination of the decedent's status as an employee of the District of Columbia government.

Sec. 2334. Funeral Expenses; Transportation of Body

(a) If death results from an injury sustained in the performance of duty, the District of Columbia government shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed eight hundred dollars (\$800), at the discretion of the Mayor.

(b) The body of an employee whose home was in the United States, at the discretion of the Mayor, may be embalmed and transported in a hermetically sealed casket to his or her home or last place of residence at the expense of the Employees' Compensation Fund if:

(1) the employee dies from:

(A) the injury while away from his or her home or official station or outside the United States; or

(B) from other causes while away from his or her home or official station for the purposes of receiving

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medical or other services, appliances, supplies or examination under this title; and

(2) the relatives of the employee request the return of the body.

If the relatives do not request the return of the body of the employee, the Mayor may provide for its disposition and incur and pay from the Employees' Compensation Fund the necessary and reasonable transportation, funeral and burial expenses.

Sec. 2335. Lump-Sum Payment

(a) The liability of the District of Columbia government for compensation to a beneficiary in the case of death or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present value of all future payments of compensation computed at four (4) percent true discount compounded annually if:

(1) the monthly payment to the beneficiary is less than fifty dollars (\$50) a month;

(2) the beneficiary is or is about to become a nonresident of the United States; or

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(3) the Mayor determines that it is for the best interest of the beneficiary.

The probability of the death of the beneficiary before the expiration of the period during which he or she is entitled to compensation shall be determined according to the most current available United States Life Tables, as developed by the United States Department of Health, Education and Welfare, but the lump-sum payment to a widow or widower of the deceased employee may not exceed sixty (60) months' compensation. The probability of the occurrence of any other contingency affecting the amount or duration of compensation shall be disregarded.

(b) On remarriage before reaching age sixty (60), a widow or widower entitled to compensation under section 2333 of this title, shall be paid a lump sum equal to twenty-four (24) times the monthly compensation payment (excluding compensation on account of another individual) to which he or she was entitled immediately before the remarriage.

Sec. 2336. Initial Payments Outside the United States

If an employee is injured outside the continental United States, the Mayor may arrange and provide for initial payment of compensation and initial furnishing of other

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benefits under this title by an employee or agent of the District of Columbia government designated by the Mayor for that purpose in the locality in which the employee was employed or the injury incurred.

Sec. 2337. Compensation for Noncitizens and Nonresidents

(a) When the Mayor finds that the amount of compensation payable to an employee who is neither a citizen nor resident of the United States or Canada, or payable to a dependent of such an employee, is substantially disproportionate to compensation for disability or death payable in similar cases under local statute, regulations, custom or otherwise at the place outside the continental United States or Canada where the employee is working at the time of injury, he or she may provide for payment of compensation on a basis reasonably in accord with prevailing local payments in similar cases by:

(1) the adoption or adaption of the substantive features, by a schedule or otherwise, of local workmen's compensation provisions or other local statute, regulation or custom applicable in cases of personal injury or death; or

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(2) establishing special schedules of compensation for injury, death and loss of use of members and functions of the body for specific classes of employees, areas and place irrespective of the basis adopted, the Mayor may at any time:

(A) modify or limit the maximum monthly and total aggregate payments for injury, death and medical or other benefits;

(B) modify or limit the percentages of the wage of the employee payable as compensation for the injury or death; and

(C) modify, limit or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this title.

(b) In a case under this section, the Mayor or his or her designee may:

(1) make a lump-sum award in the manner prescribed by section 2335 of this title when he or she, or his or her

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designee, considers it to be for the best interest of the District of Columbia government; and

(2) compromise and pay a claim for benefits, including a claim in which there is a dispute as to jurisdiction or other fact or a question of law. Compensation paid under this subsection is instead of all other compensation from the District of Columbia government for the same injury or death, and a payment made under this subsection is deemed compensation under this title and satisfaction of all liability of the District of Columbia government in respect to the particular injury or death.

(c) The Mayor may delegate to an employee or agency of the District of Columbia government, with such limitations and right of review as he or she considers advisable, authority to process, adjudicate, commute by lump-sum award, compromise and pay a claim or class of claims for compensation, and to provide other benefits, locally, under this section, in accordance with such rules and regulations and instructions as the Mayor considers necessary. For this purpose, the Mayor may provide or transfer funds, including reimbursement of amounts paid under this title.

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(d) The Mayor may waive the application of this title in whole or in part and for such period or periods as he or she may fix if the Mayor finds that:

(1) conditions prevent the establishment of facilities for processing and adjudicating claims under this section; or

(2) claimants under this section are alien enemies.

(e) The Mayor may apply this section retrospectively with adjustment of compensation and benefits as he or she considers necessary and proper.

Sec. 2338. Minimum Limit Modification for Noncitizens and Aliens

The minimum limit on monthly compensation for disability under section 2312 of this title and the minimum limit on monthly pay on which death compensation is computed under section 2333 of this title do not apply in the case of a noncitizen employee, or a class or classes of noncitizen employees, who sustain injury outside the continental United States. The Mayor may establish a minimum monthly pay on which death compensation is computed in the case of a class or classes of such noncitizen employees.

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Sec. 2339. Student-Employees

A student-employee, as defined by section 5351 of Title 5 of the U. S. Code, who suffers disability or death as a result of personal injury arising out of and in the course of training, or incurred in the performance of duties in connection with that training, is considered for the purpose of this title an employee who incurred the injury in the performance of duty.

Sec. 2340. Administration

The Mayor shall administer, and decide all questions arising under, this title. He or she may:

- (1) appoint employees to administer this title; and
- (2) delegate to the Director of the Office of Personnel any of the powers conferred on him or her by this title.

Sec. 2341. Cost-of-Living Adjustment of Compensation

- (a) Each month the Mayor shall determine the percent change in the price index. Effective the first day of the month, which begins after the price index change equals a rise of at least three (3) percent for three (3) consecutive months over the price index for the latest base month.

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compensation payable on account of disability or death which occurred more than one (1) year before the first day shall be increased by the percent rise in the price index (calculated on the highest level of the price index during the three (3) consecutive months) adjusted to the nearest one-tenth (1/10) of one (1) percent. For the purpose of this subsection, the item "price index" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, United States Department of Labor.

(b) The regular periodic compensation payments after adjustment under this section shall be fixed at the nearest dollar. However, the regular periodic compensation after adjustment shall reflect an increase of at least one dollar (\$1.00).

Sec. 2342. Employees' Compensation Fund

There is established in the District of Columbia government the Employees' Compensation Fund which consists of sums that the Council of the District of Columbia government and/or Congress, from time to time, may appropriate for or transfer to it and amounts that otherwise accrue to it under this title or other statute. The Fund is available without time limit for the payment of compensation

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and other benefits and expenses, except administrative expenses, authorized by this title or any extension or application thereof, except as otherwise provided by this title or other statute. For the purpose of this section, "administrative expenses" does not include expenses for legal service performed by or for the Mayor under sections 2331 and 2332 of this title.

Sec. 2343. Compensation Leave

Any employee who has used leave as a result of a job-related injury or occupational disease or illness approved by the District government shall have such leave restored to his or her credit at no cost to the employee in accordance with rules and regulations established by the Mayor.

Sec. 2344. Rules\_and\_Regulations

The Mayor may prescribe rules and regulations necessary for the administration and enforcement of this title including rules and regulations for the conduct of hearings under section 2324 of this title. The rules and regulations shall provide for an Employees' Compensation Appeals Board of three (3) individuals designated or appointed by the Mayor with authority to hear and, subject to applicable law and the rules and regulations of the Mayor, make final

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administrative decisions on appeals taken from determinations and awards with respect to claims of employees. The Mayor may determine the nature and extent of the proof and evidence required to establish the right to benefits under this title without regard to the date of injury or death for which claim is made.

Sec. 2345. Career and Educational Services Retention Rights

(a) In the event the individual resumes employment with the District government, the entire time during which the employee was receiving compensation under this title shall be credited to the employee for the purposes of within-grade step increases, retention purposes and other rights and benefits based upon length of service.

(b) Under rules and regulations issued by the Mayor the department or agency which was the last employer shall:

(1) immediately and unconditionally accord the employee, if the injury or disability has been overcome within two (2) years after the date of commencement of compensation or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the District of Columbia

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government, the right to resume his or her former, or an equivalent, position as well as all other attendant rights which the employee would have had or acquired in his or her former position had he or she not been injured or disabled, including the rights to tenure, promotion and safeguards in reduction-in-force procedures, and

(2) if the injury or disability is overcome within a period of more than two (2) years after the date of commencement of compensation, make all reasonable efforts to place, and accord priority to placing, the employee in his or her former or equivalent position within such department or agency, or within any other department or agency.

Sec. 2345. Transfer of Authority

In accordance with subsection (e) of section 204 of the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 783; D.C. Code, sec. 36-504), the disability compensation functions previously exercised by the United States Secretary of Labor relating to the processing of claims by injured employees of the District of Columbia are transferred to the Mayor on the date that this act becomes effective as provided in section 3602 of this act.

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TITLE XXIV

REDUCTIONS-IN-FORCE

**Sec. 2401. Policy**

The Mayor and the District of Columbia Board of Education shall issue rules and regulations establishing a procedure for the orderly termination of employees, taking full account of non-discrimination provisions and appointments' objectives of this act. Each agency shall be considered a competitive area for reduction-in-force purposes. Lesser or broader competitive areas within an agency are prohibited. When as a result of a reorganization order a function is transferred from one District agency to another District agency, the procedures for transferring the employees identified with the continuing function shall be negotiated with the recognized labor organization.

**Sec. 2402. Procedures**

(a) Reduction-in-force procedures shall establish the Career and Educational Services as the priority services and include: (1) a prescribed order of separation as provided below based on tenure of appointment, length of service including creditable federal and military service, veterans preference and relative work performance; (2) placement of

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employees affected by a reduction-in-force in vacant positions; (3) priority reemployment consideration for employees separated; (4) consideration of job sharing and reduced hours; and (5) employee appeal rights.

(b)(1) For purposes of this title, a veterans preference eligible will be defined in accordance with federal law and regulations issued thereunder by the United States Civil Service Commission; (2) creditable service in determining length of service shall include all federal, District government and military service otherwise creditable for Civil Service retirement purposes; (3) current performance ratings documented and approved which recognize outstanding performance shall serve to increase the employee's service for reduction-in-force purposes by four (4) years during the period the outstanding rating is in effect. Performance ratings may not be changed subsequent to the establishment of retention registers and issuance of reduction-in-force notices; and (4) employees serving on temporary limited appointments or having unsatisfactory performance ratings are not entitled to retention rights and other provisions of this title.

(c) A reduction-in-force action may not be taken until the employee has been afforded at least thirty (30) days

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advance notice of such an action. The notification required by this section must be in writing and must include information pertaining to the employees' retention standing and appeal rights.

(d) Policies and procedures developed under the authority of this title are appropriate matters for collective bargaining with labor organizations: PROVIDED, HOWEVER, That no such bargaining agreement may provide benefits or procedures of less employee protection than those contained in this title.

Sec. 2403. Responsibility

The appropriate personnel authority shall be responsible for ensuring that the provisions of this title and rules and regulations issued pursuant thereto are applied when effecting a reduction-in-force within their respective agency.

Sec. 2404. Appeals

An employee who has received a specific notice that he or she has been identified for release from his or her competitive level position through a reduction-in-force action may file an appeal with the Office of Employee Appeals if he or she believes that his or her agency has

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incorrectly applied the provisions of this title or the rules and regulations issued pursuant thereto. Such an appeal must be filed no later than fifteen (15) calendar days after the effective date of the action. The filing of an appeal shall not serve to delay the effective date of the action.

## TITLE XXV

### POLITICAL RIGHTS OF EMPLOYEES

#### Sec. 2501. Policy

It is the policy of the Council that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary participation in the political processes of our city and nation.

#### Sec. 2502. Definitions

For the purpose of this title:

(a) The term "employee" means any individual employed or holding office in the District government;

(b) The term "candidate" means an individual determined by the enforcing authority to be a candidate under the Act entitled "An Act to regulate the election of delegates

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representing the District of Columbia to national political conventions, and for other purposes", approved August 12, 1955 (69 Stat. 699; D.C. Code, sec. 1-1101 et seq.);

(c) The term "political contribution" shall have the same meaning as in subsection (f) of section 102 of the "District of Columbia Campaign Finance Reform and Conflict of Interest Act", approved August 14, 1974 (88 Stat. 447; D.C. Code, sec. 1-1121(f)).

(d) The term "superior" means an employee who exercises supervision of, or control or administrative direction over another employee;

(e) The term "elective office" means any elective public office whether in the District government or not and any elective office of any political party or affiliated organization;

(f) The term "enforcing authority" means the District of Columbia Board of Elections and Ethics;

(g) The term "person" means any individual, corporation, trust, association, or any agency or instrumentality of the District government; and

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(h) The term "restricted position" means any position with respect to which there is in effect a determination by the District of Columbia Board of Election and Ethics, by rule and regulation, that:

(1) the duties and responsibilities of such position require such employee, as a substantial part of his or her official activities, to engage in the following:

(A) enforcement of any civil or criminal law;  
(B) inspection or auditing of the activities of any person;

(C) contracting for goods or services for the District government; or

(D) providing, administration or monitoring of licenses, grants, subsidies or other benefits.

(2) the duties and responsibilities of such position shall be:

(A) in the case of any inspection, audit, prosecution or investigation under any civil or criminal law, employees holding such positions have the authority to make policy decisions binding on other employees under their control who shall be the subject of any such action; or

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(3) in the case of any government contract or any government license, grant, subsidy or other benefit, employees holding such positions have the authority to make binding decisions on other employees under their control with respect to such contract or benefit which involves any funds or other interest having a substantial monetary value; and

(3) the restrictions on political activity imposed on such employee in such a position are justified in order to ensure the integrity of the government.

The definitions contained in this section shall be controlling over any contrary provisions of law for the purpose of this title.

Sec. 2503. Use of Official Influence or Official Information; Prohibition

(a) An employee may not directly or indirectly use or attempt to use his or her official authority or influence for the purpose of:

(1) interfering with or affecting the result of any election; or

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(2) intimidating, threatening, coercing, commanding, influencing or attempting to intimidate, threaten, coerce, command or influence:

(A) any individual for the purpose of interfering with the right of such individual to vote as such individual may choose, or of causing such individual to vote or not to vote for any candidate or measure in any election;

(B) any person to give or withhold any political contribution; or

(C) any person to engage or not to engage in any form of political activity whether or not such activity is prohibited by law.

(D) An employee may not directly or indirectly use or attempt to use, or permit the use of, any official information obtained through or in connection with his or her employment for any political purpose, unless such official information is available to the general public.

(E) For the purpose of subsection (a) of this section, "use of the official authority or influence" includes the following:

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(1) promising to confer or conferring any benefit, such as any compensation, grant, contract, license or ruling, or effecting or threatening to effect any reprisal such as deprivation of any compensation, grant, contract, license or ruling; or

(2) taking, directing others to take, recommending, processing or approving any personnel action, such as any appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation or any adverse action under this act, suspension for thirty (30) days or less or other disciplinary action.

Sec. 2504. Solicitation; Prohibition

(a) An employee may not do the following:

(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

(2) solicit, accept or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

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(3) knowingly give or hand over a political contribution to a superior of such employee; or

(4) knowingly solicit, accept or receive, or be in any manner concerned with soliciting, accepting or receiving a political contribution:

(A) from another employee or a member of another employee's immediate family with respect to whom such employee is a superior; or

(B) in any room or building occupied in the discharge of official duties by:

(i) an individual employed or holding office in the government of the United States, in the District of Columbia government or in any agency of the foregoing; or

(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States or the District of Columbia.

(b) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not solicit, accept, or receive a political contribution from or give a political contribution to any individual who

is an employee, the Mayor, the Chairman or a Member of the Council, the President or a Member of the District of Columbia Board of Education (or a candidate for such office) or any agent of any such individual. The preceding sentence shall not be construed to prohibit an employee from giving a political contribution to a political committee.

Sec. 2505. Political Activities on Duty, etc.:

Prohibition

(a) An employee may not engage in political activity:

(1) while such employee is on duty;

(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the District government or any agency thereof; or

(3) while wearing a uniform or official insignia identifying the office or position of such employee.

(b) The provisions of subsection (a) of this section shall not apply to the Mayor of the District of Columbia, the Chairman or a Member of the Council of the District of Columbia, President or Member of the District of Columbia Board of Education, or any activity of an individual which

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is not otherwise prohibited by or under law and which is part of such individual's official duties.

(c) Nothing in this section shall be construed to authorize an individual designated in subsection (b) of this section to engage in political activity otherwise prohibited by or under law.

Sec. 2506. Candidates for Elective Office; Leave, Notification by Employees

(a) An employee shall promptly notify the agency in which he or she is employed upon becoming a candidate for elective office and upon the termination of such candidacy.

(b) An employee who is a candidate for elective office shall, upon his or her request, be granted leave without pay for the purpose of engaging in activities relating to such candidacy.

(c) An employee who is a candidate for elective office shall, upon his or her request, be granted accrued annual leave for the purpose of engaging in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

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(d) The foregoing provisions of this section shall not apply in the case of an individual who is an employee by reason of holding of an elective public office.

(e) An employee in the Excepted Service paid from appropriations to the Office of the Mayor or the Council of the District of Columbia may be permitted to accept a less than full-time status to engage in other activities authorized under this title.

(f) The provisions of this section shall also apply to any District employee working in the campaign of an individual seeking elective office.

Sec. 2507. Investigation; Procedures; Hearing

(a) The enforcing authority shall investigate reports and allegations of any activity prohibited by sections 2503, 2504, or 2505 of this title. Any such investigation shall terminate not later than ninety (90) days after the date of its commencement. If the enforcing authority does not make the notification required under subsection (c) of this section before the close of the period for investigation, paragraphs (2) and (3) of subsection (c) and subsection (d) of this section and section 2508 of this title shall not

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apply thereafter to the employee involved with respect to the activities under investigation.

(b) As a part of the investigation of the activities of an employee, the enforcing authority shall provide such employee an opportunity to make a statement concerning the matters under investigation and to support such statement with any documents the employee wishes to submit. An employee of the enforcing authority lawfully assigned to investigate a violation of this title may administer an oath to a witness attending to testify or depose in the course of the investigation.

(c)(1) If it appears to the enforcing authority after investigation that a violation of section 2503, 2504 or 2505 of this title has not occurred, it shall so notify the employee and the agency in which the employee is employed.

(2) Except as provided in paragraph (3) of this subsection, if it appears to the enforcing authority after investigation that a violation of section 2503, 2504 or 2505 of this title has occurred, the enforcing authority shall serve upon the employee a notice, by certified mail, return receipt requested. If notice cannot be served in such manner, then it may be served by any method calculated to apprise the employee. The notice shall contain information:

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(A) setting forth specifically and in detail the charges of alleged prohibited activity;

(B) advising the employee of the penalties provided under section 2508 of this title;

(C) specifying a period of not less than thirty (30) days within which the employee may file with the enforcing authority a written answer to the charges in the manner prescribed by the rules and regulations issued by the enforcing authority; and

(D) advising the employee that unless the employee answers the charges, in writing, within the time allowed therefor, the enforcing authority may treat such failure as an admission by the employee of the charges set forth in the notice and a waiver by the employee of the right to a hearing on the charges.

(3) If it appears to the enforcing authority after investigation that a violation of section 2503, 2504 or 2505 of this title has been committed, the enforcing authority shall refer the case to the Corporation Counsel for consideration of prosecution, if appropriate, under this title and shall report the nature and details of the apparent violation to the Mayor and to the Council.

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(d)(1) If a written answer is not filed within the time allowed therefor, the enforcing authority may, without further proceedings, issue its final decision and order.

(2) If an answer is filed within the time allowed therefor, the charges shall be determined by the enforcing authority on the record after a hearing conducted by an examiner, notwithstanding any exception in this act for matters involving the tenure of an employee. The hearing shall be commenced within thirty (30) days after the answer is filed with the enforcing authority and shall be conducted without unreasonable delay. As soon as practicable after the conclusion of the hearing, the examiner shall serve, upon the enforcing authority and the employee, such examiner's recommended decision with a notice to the enforcing authority and the employee of opportunity to file with the enforcing authority, within thirty (30) days after the date of such notice, exceptions to the recommended decision. The enforcing authority shall issue its final decision and order in the proceeding no later than sixty (60) days after the date the recommended decision is served. The employee shall not be removed from active duty status by reason of the alleged violation of this title at any time before the effective date specified by the enforcing authority.

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(e)(1) At any stage of a proceeding or investigation under this title, the examiner, at the written request of the enforcing authority or the employee, may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the proceeding or investigation at any designated place from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico or the District of Columbia. Any examiner may issue subpoenas and any examiner, authorized by the enforcing authority, may administer oaths, examine witnesses and receive evidence. In the case of contumacy or failure to obey a subpoena, the Superior Court of the District of Columbia may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(2) Any member of the enforcing authority may order the taking of depositions at any stage of a proceeding or investigation under this title. Depositions shall be taken before an individual designated by the enforcing authority and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the

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individual taking the deposition and shall be subscribed to by the deponent.

(f) An employee upon whom a penalty is imposed by an order of the enforcing authority under subsection (d) of this section may, within thirty (30) days after the date on which the order was issued, institute an action for judicial review of the enforcing authority's order in the District of Columbia Court of Appeals. The institution of an action for judicial review shall not operate as a stay of the enforcing authority's order. A copy of the notice of appeal shall be served as otherwise prescribed by law and, in addition, upon the enforcing authority who shall then certify and file with the court the record upon which the order was based. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that additional evidence may materially affect the result of the proceeding, and that there were reasonable grounds for failure to adduce the evidence at the hearing conducted under paragraph (2) of subsection (d) of this section, the court may direct that the additional evidence be taken before the enforcing authority in the manner and on the terms and conditions fixed by the court. The enforcing authority may modify their findings of fact or order, in the light of the additional evidence, and shall file with the

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court such modified findings or order. The enforcing authority's findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the enforcing authority's order if it determines that it is in accordance with law. If the court determines that the order is not in accordance with law:

(1) it shall remand the proceeding to the enforcing authority with directions either to enter an order determined by the court to be lawful (including an order for reinstatement with or without back pay) or to take such further proceedings as in the opinion of the court are required; and

(2) it may assess against the District government reasonable attorneys' fees and other litigation costs reasonably incurred by the employee.

(g) The enforcing authority may proceed with any investigation or proceeding instituted under this title notwithstanding that the enforcing authority or the head of an employing agency has reported the alleged violation to the Corporation Counsel.

(h)(1) All decisions of the enforcing authority with respect to the exercise of its duties and powers under the

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provisions of this title shall be made by a majority vote of the members of the enforcing authority.

(2) A member of the enforcing authority may not delegate to any person his or her vote, nor, except as expressly provided in this title, may any decision making authority vested in the enforcing authority by the provisions of this title be delegated to any other person.

Sec. 2508. Penalties

(a) An employee who is found under section 2507 of this title to have violated any provision of:

(1) section 2503 of this title shall, upon a final order of the enforcing authority, be suspended without pay from his or her position for a period of not less than thirty (30) days or shall be removed, in which event that employee may not thereafter hold any position (other than an elected position) as an employee in the District government; or

(2) section 2504 or 2505 of this title shall, upon a final order of the enforcing authority, be:

(A) removed from such employee's position, in which event that employee may not thereafter hold any

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position (other than an elected position) as an employee of the District government for such period as the enforcing authority may prescribe;

(B) suspended without pay from such employee's position for such period as the enforcing authority may prescribe; or

(C) disciplined in such other manner as the enforcing authority shall deem appropriate.

(d) The enforcing authority shall notify the employee and the employing agency of any penalty it has imposed under this section. The employing agency shall certify to the enforcing authority the measures undertaken to implement the penalty.

**Sec. 2509. Educational Program; Reports**

(a) The enforcing authority shall establish and conduct a continuing program to inform all employees of their rights of political participation and to educate employees with respect to those political activities which are prohibited.

(b) The enforcing authority shall designate an employee within its office who shall be responsible for the establishment and administration of the program described in

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subsection (a) of this section. Such employee may receive and answer questions relating to the provisions of this title. Information received by such employee and the identity of the person who provided such information shall not be disclosed by such employee except with the consent of the person who provided such information.

(c) On or before March 31st of each calendar year, the enforcing authority shall submit a report covering the preceding calendar year to the Mayor and Chairman of the Council. The report shall include the following:

(1) the number of investigations conducted under section 2507 of this title and the results of such investigations;

(2) the name and position or title of each individual involved and the funds expended by the enforcing authority in carrying out the program required under subsection (a) of this section; and

(3) an evaluation which describes:

(A) the manner in which such program is being carried out; and

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(3) the effectiveness of such program in carrying out the purposes set forth in subsection (a) of this section.

Sec. 2510. Rules and Regulations

(a) The enforcing authority shall issue such rules and regulations as may be necessary to carry out its responsibilities under this title in accordance with the provisions of subsection (g) of section 404 of this act.

(b) The rules and regulations referred to in subsection (a) shall be issued not later than ninety (90) days after the effective date of this section.

Sec. 2511. Extortion of Political Contributions from District Employees

Whoever, by the commission of or threat of physical violence to or economic sanction against any person, obtains or endeavors to obtain from an officer or employee of the District of Columbia or of any agency thereof, or from a person receiving any salary or compensation for services from money derived from the Treasury of the United States or Treasurer of the District of Columbia any contribution for the promotion of a political object shall be imprisoned not

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more than one (1) year, or fined not more than five thousand dollars (\$5,000), or both.

Sec. 2512. Hatch Act Retention

The provisions of subchapter III of chapter 73 of Title 5 of the U.S. Code, affecting political activities of employees of the District of Columbia, shall remain effective.

Sec. 2513. Protection of Political Rights of Classroom Teachers

No provision of this title shall be construed to limit the rights of classroom teachers to freely express political opinions.

TITLE XXVI

RETIREMENT

Sec. 2601. Policy

(a) It is the purpose of this title to establish a financially sound and equitable program of employee retirement benefits. With respect to retirement systems, the Council recognizes that existing programs, including the

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program administered by the federal government, are not now financed on an actuarially sound basis. Furthermore, the rights and benefits conferred by these systems and the financial implications for participation by employees vary significantly among systems.

(b) The responsibility for creating an actuarially sound financial plan for existing retirement systems cannot and should not be borne solely by the District government. The Council therefore fully endorses the proposition that the federal government must assist the District government in establishing and maintaining the necessary financial base for all existing retirement systems.

Sec. 2502. Retirement Systems

Except as provided in section 2503 of this act, existing retirement systems, which include the Civil Service Retirement System (chapter 83 of Title 5 of the U.S. Code), Teachers' Retirement System, Police and Fire Retirement System, Teachers Insurance Annuity Association programs and the Judges' Retirement System, shall continue to be applicable to all employees.

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TITLE XXVII

TEMPORARY ASSIGNMENT OF DISTRICT EMPLOYEES

Sec. 2701. Policy

(a) The District government recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting the District and that the temporary assignment of personnel between and among governmental agencies, at the same or different levels of government and institutions of higher education, is a significant factor in achieving such cooperation.

(b) Any agency is authorized to participate in a program of personnel interchange with institutions of higher education or agencies of the federal, state and local governments: PROVIDED, HOWEVER, That the period of original assignment cannot exceed one (1) year, but with the concurrence of the agencies and the employee involved, the assignment period may be extended for an additional year. In no case may an assignment extend beyond two (2) years.

Sec. 2702. Status of District Employees while on Assignment

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(a) Any employee of a District agency participating in an exchange of personnel as authorized in section 2701 of this title may be considered, during such participation, to be: (1) on detail to regular work assignments of the receiving agency; or (2) in a status of leave of absence from his or her positions in the sending agency;

(b) Any employee who is on detail is entitled to the same salary and benefits to which he or she would otherwise be entitled and shall remain an employee of the sending agency for all other purposes except that the supervision of duties during the period of detail may be governed by agreement between the sending agency and the receiving agency;

(c) An employee who is on a leave of absence is entitled to at least the same salary and benefits to which he or she would otherwise be entitled. The salary and benefits shall be paid by the receiving agency except as otherwise agreed between the sending and the receiving agencies;

(d) The receiving agency may grant annual leave or other time off with compensation to the extent authorized by law applicable to the sending agency;

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(e) Except as otherwise provided in this act, an employee who is on a status of leave of absence has the same rights, benefits and obligations as any other employee of the sending agency who is on a leave of absence status for any other purpose;

(f) Any employee who participates in a temporary assignment under this title and who suffers disability or death as a result of personal injury arising out of and in the course of the assignment, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the District's disability compensation program, as an employee who has sustained such injury in the performance of such duty, but shall not receive disability or injury benefits under that program for any period for which he or she is entitled to and elects to receive similar benefits under the employee compensation of the receiving agency.

Sec. 2703. Status of Employees of Other Governments

(a) When any agency of the District acts as a receiving agency, employees of the sending agency who are assigned under authority of this act may: (1) be given appointments in the receiving agency covering the periods of such assignments with compensation to be paid from receiving

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agency funds or without compensation; or (2) be considered to be on detail to the receiving agency.

(b) The appointment of an employee of another government, assigned to a District agency, may be made without regard to the laws or rules and regulations governing the selection of employees in the Career and Educational Services.

(c) An employee of another government who is detailed to a District agency may not by virtue of such detail be considered to be an employee of the District, except as provided in this section, nor may he or she be directly paid a salary or wage by the District agency. The assignment agreement may, however, authorize the District agency to reimburse the sending agency for all or any part of the employee's salary and fringe benefits. The agreement between the sending agency and the receiving agency may govern the supervision of the duties of such employees during the period of detail.

(d) The District government shall treat any employee of a sending agency assigned to the District who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties as a District employee for the

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purpose of the District's employee disability compensation program. An employee is not entitled to benefits under that program for any period for which he or she elects similar benefits as an employee under the employee compensation program of his or her permanent employer.

Sec. 2704. Travel Expenses

(a) A District agency may, in accordance with the applicable travel rules and regulations, pay the travel expenses of an employee assigned to another government or institution of higher education on either a detail or leave basis, but shall not pay the travel expenses of any employee incurred in connection with his or her work assignment at the receiving agency. If the assignment will be for a period of time exceeding nine (9) months, travel expenses may include expenses of transportation of immediate family, household goods and personal affects to and from the location of the receiving agency. If the period of assignment is less than nine (9) months, the District agency may pay a daily allowance to the employee on assignment or detail.

(b) A District agency may, in accordance with the applicable travel rules and regulations, pay travel expenses of a person assigned to it under this act during the period

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of such an assignment on the same basis as if he or she were a regular employee of the District.

(c) The costs associated with travel, relocation and daily expenses may be shared by the participating governments or institution of higher education or be borne solely by either party to the agreement.

Sec. 2705. Agreements Authorized

Any assignment entered into by a District agency under the authority of this title must be implemented by a written agreement and this agreement shall contain the following provisions: (1) the signature of the employee to be assigned indicating he or she fully concurs in the assignment and has been made aware of all appropriate rules and regulations governing the assignment; (2) the approval of appropriate officials of the sending and receiving agencies; (3) the terms and conditions for the payment of salary and other expenses, and any reimbursement among participating agencies; and (4) the duties and responsibilities to be carried out on the assignment. The agreement must be signed by all participants before the assignment can become effective.

TITLE XXVIII

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AGREEMENTS AUTHORIZED

Sec. 2801. Authority

The Mayor, the District of Columbia Board of Education, and the Board of Trustees of the University of the District of Columbia are hereby authorized and empowered to enter into reciprocal agreements for the use of equipment, materials, facilities and services with any public or private agency or body for purposes deemed beneficial to the personnel system. For the purposes of agreements with federal agencies under this title, the provisions of section 731 of the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 822; D.C. Code, sec. 1-826) shall be met.

Sec. 2802. Agreements Required

The Mayor shall enter into an agreement with the United States Civil Service Commission to carry out the purposes of titles XXI, XXII and XXVI of this act.

Sec. 2803. Courts

The Public Employee Relations Board is authorized to enter into agreements with the courts of the District of

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Columbia to implement a positive program of employee-employer relations.

Sec. 2804. Transit Commission

The Mayor is hereby authorized and empowered to enter into an agreement with the Washington Metropolitan Area Transit Commission to implement the inclusion of the employees of such Commission as participants in the United States Civil Service Retirement System (chapter 83 of Title 5 of the U.S. Code).

TITLE XXIX

WAIVER OF CLAIMS FOR ERRONEOUS EMPLOYEE PAYMENTS

Sec. 2901. Policy and Procedure

(a) In accordance with rules and regulations issued by the Mayor, the Mayor may waive, in whole or part, a claim of the government of the District of Columbia against an employee or former employee of the District arising out of an erroneous payment made to him or her before or after the date this section becomes law when collection would be:

(1) against equity;

(2) against good conscience; and

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(3) not in the best interests of the District.

(b) The authority to waive any claim may not be exercised if there exists, in connection with the claim, an indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim. After the expiration of three (3) years immediately following the date on which the erroneous payment of pay or retirement benefits was discovered or three (3) years immediately following the effective date of this section, whichever is later, the Mayor may not make any claim for erroneous payment of pay or retirement benefits.

(c) If the Mayor refuses to grant a waiver of the District's claim, the person requesting the waiver is entitled to a hearing before the Office of Employee Appeals. After the hearing, the Office of Employee Appeals may waive the claim of the District in accordance with the standards set forth in subsections (a) and (b) of this section.

(d) A person who has repaid to the District all or part of the amount of a claim, with respect to which a waiver is granted under this title, is entitled to a refund from the employing agency at the time of the erroneous payment, of

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the amount repaid to the District. The refund may not exceed the amount the employee has erroneously repaid.

(e) An erroneous payment, the collection of which is waived under this title, is a valid payment for all purposes.

(f) This section does not affect the authority under any other statute to litigate, settle, compromise or waive any claim of the District of Columbia government.

TITLE XXX

ELIMINATION OF PERSONAL SURETY BONDS FOR  
DISTRICT EMPLOYEES

Sec. 3001. Policy

(a) No agency may require or obtain surety bonds for any employee in connection with the performance of official duties.

(b) The personal financial liability to the District Government of such employees and personnel is not affected by reason of subsection (a) of this section.

(c) Whenever the following occurs:

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(1) it is necessary to restore or otherwise adjust the account of an accountable officer or his or her agent for any loss to the District due to the fault or negligence of that officer or agent; and

(2) the head of that agency determines that the amount of the loss is uncollectable, such amount shall be charged to the appropriation of funds available for the expenses of the accountable function at the time the restoration or adjustment is made. The restoration or adjustment does not affect the personal financial liability of that officer or agent on account of the loss.

(d) The restorations and adjustments provided for by subsection (c) of this section shall be made in accordance with rules and regulations issued by the Mayor.

#### TITLE XXXI

#### RECORDS MANAGEMENT AND PRIVACY OF RECORDS

##### Sec. 3101. Policy; Issuance of Rules and Regulations

All official personnel records of the District government shall be established, maintained and disposed of in a manner designed to ensure the greatest degree of applicant or employee privacy while providing adequate,

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necessary and complete information for the District to carry out its responsibilities under this act. Such records shall be established, maintained and disposed of in accordance with rules and regulations issued by the Mayor.

Sec. 3102. Cooperation with the United States Civil Service Commission

Because of the statutory and administrative relationships in personnel administration between the District and federal governments, and to ensure that personnel records include information of importance to both governmental jurisdictions, the rules and regulations issued by the Mayor shall, insofar as is practicable, be consistent with civil service rules and regulations governing personnel records management in the federal service.

Sec. 3103. Disclosure of Official Information

It is the policy of the District government to make personnel information in its possession or under its control available upon request to appropriate personnel and law enforcement authorities, except if such disclosure would constitute an unwarranted invasion of personal privacy or is prohibited under law or rules and regulations issued pursuant thereto.

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Sec. 3104. Rules and Regulations Affecting Disclosure

The Mayor shall issue rules and regulations governing the disclosure of official information contained in personnel records.

Sec. 3105. Employee Access to Official Personnel Record

(a)(1) The official personnel record of a District employee shall be disclosed to the employee or any representative of his or her choice. All such disclosure shall be made in the presence of a representative of the agency having custody of the records; and (2) The following information which may be in an official personnel record shall not be disclosed to any employee: (A) information which has been received on a confidential basis from a person under an agreement that the identity of the source of the information will not be disclosed: PROVIDED, HOWEVER, That such information may be disclosed if all information identifying the source of the information is deleted in such a manner to positively preclude identity of the source; (B) medical information, which, in the judgment of the employee's physician would be injurious to the health of the employee, if disclosed; (C) criminal investigative reports; (D) suitability inquiries and confidential questionnaires undertaken in accordance with rights afforded under this

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act; and (E) test and examination materials which may continue to be used for selection and promotion purposes: PROVIDED, HOWEVER, That the description of test and general results thereof shall be disclosed.

(b) Each employee shall have the right to present information immediately germane to any information contained in his or her official personnel record and seek to have irrelevant, immaterial or untimely information removed from the record.

(c) For the purpose of this title, information other than a record of official personnel action is untimely if it concerns an event more than three (3) years in the past upon which an action adverse to an employee may be based. Immaterial, irrelevant or untimely information shall be removed from the official record upon the finding by the agency head that the information is of such a nature. Prior to the removal of any information in the file, the employer shall notify the employee and give him or her an opportunity to be heard.

Sec. 3106. Appeals

An employee may appeal any decision rendered by the Mayor or an agency head under the authority of this title to

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the Office of Employee Appeals in such a manner as the Office of Employee Appeals shall prescribe. In such appeal, the employee seeking review of an agency decision rendered under the authority of this section shall have the burden of proof.

Sec. 3107. Transfer of Official Personnel Folders

The system for the maintenance of the Official Personnel Folder established under section 3101 of this title shall provide for the transfer of folders between agencies of the District government subject to this act when employees transfer from one agency to another.

Sec. 3108. Exchange of Official Personnel Information

The Mayor, pursuant to the provisions of sections 2801 and 3102 of this act, shall enter into an agreement with the United States Civil Service Commission for the exchange of official personnel information, to the extent mutually agreed upon, between the District and federal government in accordance with limitations imposed by this title.

TITLE XXXII

IMPLEMENTATION; CONFORMING AMENDMENTS AND REPEALERS;  
SPECIFIC RETENTION OF LAWS AND AUTHORITIES;

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RULES OF CONSTRUCTION

Sac. 3201. Continuation of Personnel Rules and Regulations

All personnel rules and regulations, issued under appropriate authority on or before the date that this section becomes effective as provided in subsection (b) of section 3602 of this act, shall continue in full force and effect until superseded by a provision of this act. All administrative directives of whatever name issued by any personnel authority or the Chiefs of the Metropolitan Police Department or the District of Columbia Fire Department in effect on the date that this section becomes effective as provided in subsection (b) of section 3602 of this act shall remain in effect until superseded by a provision of this act. Such existing rules and regulations may be amended in accordance with existing provisions of law.

Persons employed by the District of Columbia government after the date that this act becomes law as provided in section 3601 of this act shall be appointed under existing authority until the provisions of this act become effective.

Sac. 3202. Specific Supersession of Existing Laws and Agreements for Employees Hired on and After the Date that

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this Act Becomes Effective as Provided in Section 3602 of this Act

The following provisions of Title 5 of the United States Code are superseded for employees hired by the District government on or after the date that this act becomes effective as provided in section 3602 of this act:

(a) General Regulations Authority:

Provisions of (1) 5 U.S.C. secs. 1302(b) and (c) (relating to the development of regulations affecting employees of the District of Columbia); and (2) 5 U.S.C. sec. 1304(a)(3) (relating to loyalty investigations affecting employees of the District of Columbia);

(b) General Provisions of Law Relating to Employees:

(1) 5 U.S.C. sec. 2102 (a)(3) (relating to employees of the District of Columbia in the competitive service); (2) 5 U.S.C. sec. 2108(3)(E) (relating to certain preferences to veterans for employment with the District of Columbia government); and (3) 5 U.S.C. sec. 2905(a) (relating to renewal of oaths by employees of the District government);

(c) Employment and Retention:

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(1) 5 U.S.C. sec. 3101 (relating to general employment authority of the District of Columbia government); (2) 5 U.S.C. secs. 3102(a)(1)(C) and (a)(2) (relating to the employment of readers for blind employees of the District of Columbia government); (3) 5 U.S.C. sec. 3108 (relating to the employment of detective agencies by the District of Columbia government); (4) 5 U.S.C. sec. 3110(a)(1)(D) (relating to the employment of relatives of incumbents by the District of Columbia government); (5) 5 U.S.C. secs. 3315(a) and 3316 (relating to the employment of preference eligibles by the District of Columbia government); (6) 5 U.S.C. sec. 3320 (relating to the District of Columbia government excepted service); (7) 5 U.S.C. sec. 3323(a) (relating to automatic separations and the reemployment of annuitants by the District of Columbia government); (8) 5 U.S.C. secs. 3333(a) and (b) (relating to loyalty of and striking against the government by employees of the District of Columbia government); (9) 5 U.S.C. secs. 3351 and 3363 (relating to transfers and promotion of employees of the District of Columbia government); (10) 5 U.S.C. sec. 3504 (relating to retention of preference eligible employees of the District of Columbia government); and (11) 5 U.S.C. sec. 3551 (relating to restoration of

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positions after active or duty training by employees of the District of Columbia government);

(d) Employee Performance:

(1) 5 U.S.C. secs. 4101(1)(F) and (3), 4301(1)(F) and (2)(D) (relating to training and performance and ratings of employees of the District of Columbia government); and (2) 5 U.S.C. secs. 4501(1)(G), (2)(B) and (3) (relating to incentive awards for employees of the District of Columbia government);

(e) Pay and Allowances:

(1) 5 U.S.C. sec. 5102(a)(1)(G) (relating to the classification of employees of the District of Columbia government); (2) 5 U.S.C. sec. 5307(a)(1) (relating to the fixing of pay by administrative action for certain employees of the District of Columbia government); (3) 5 U.S.C. sec. 5337(a)(2) (relating to pay savings provisions for certain general schedule employees of the District of Columbia government); (4) 5 U.S.C. sec. 5344(b) (relating to the effective date of wage increases for certain employees of the District of Columbia government); (5) 5 U.S.C. sec. 5349(a) (relating to employees in recognized trades and crafts employed by the District of Columbia government); (6)

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5 U.S.C. secs. 5351(1), 5352 and 5353 (relating to student employees employed by the District of Columbia government); (7) 5 U.S.C. secs. 5504(a)(3), (b)(3)(D), 5506, 5508, 5515, 5521(1)(E), (3)(B), 5522(c), 5523(a)(1)(B), (c), 5527(b), 5531(2), 5534, 5534a, 5337(a)(2), 5541(1)(G), (2)(B), 5541(2)(C)(ii), (iii), (iv), 5546(d), 5551(a), 5552, 5581(1)(B), (2), 5583(b)(1), 5595(1)(D), (d), (f) and 5596(a)(5) (relating to pay administration for employees of the District of Columbia government); (8) 5 U.S.C. secs. 5701(1)(E), (5) and 5721(1)(H) and (4) (relating to travel, transportation, and subsistence allowances for employees of the District of Columbia government); and (9) 5 U.S.C. secs. 5901(a), 5945 and 5946(1) (relating to certain allowances for employees of the District of Columbia government);

(f) Leave:

5 U.S.C. secs. 6101(a)(1), (a)(2), (a)(3), (a)(4), 6103(c), 6104, 6301(2)(B), 6306(a), 6307(a), (c), 6308, 6322(a), (b), 6323, 6324(a), (b)(1) and 6326(a) (relating to attendance and leave provisions for employees of the District of Columbia government);

(g) Loyalty, Striking and Civil Disorders:

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5 U.S.C. secs. 7311, 7313(a) and 7351 (relating to loyalty, striking and participation in civil disorders by employees of the District of Columbia government and rendering gifts to supervisors);

(h) Political Activities:

5 U.S.C. sec. 7324 (relating to political activities by certain employees of the District of Columbia government);

(i) Adverse Actions:

5 U.S.C. sec. 7511(1) (relating to adverse actions affecting certain employees of the District of Columbia government);

(j) Safety Programs:

5 U.S.C. sec. 7902(a)(2) (relating to safety programs for employees of the District of Columbia government); and

(k) Compensation for Work Injuries:

5 U.S.C. secs. 9101(1)(D) and 8139 (relating to workmen's compensation claims for employees of the District of Columbia government).

Sec. 3203. Fire and Police

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The provisions of this section shall not apply to police officers and firefighters appointed after the date that this act becomes effective as provided in section 3602 of this act.

(a)(1) Sections 3 and 4 of the "District of Columbia Police and Firemen's Salary Act Amendment of 1975" (D.C. Code, sec. 4-823, note);

(2) Paragraphs (2), (3), (4), (5) and (7) of section 1 and section 3 of the Act entitled "An Act relating to the Metropolitan Police of the District of Columbia", approved February 28, 1901, as amended (31 Stat. 819; D.C. Code, secs. 4-102, 4-103, 4-110, 4-124, 4-125, 4-127 and 4-129);

(3) Sections 344, 351, 353, 355, 357-360 and 365 of the Revised Statutes of the District of Columbia, approved June 11, 1873 (20 Stat. 107; D.C. Code, secs. 4-126, 4-104, 4-128, 4-129 and 4-130);

(4) The second paragraph under the heading "Metropolitan Police" of the Act antitled "An Act Making appropriations to provide for expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and nineteen, and for other purposes", aporoved

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August 31, 1918 as amended (40 Stat. 938; D.C. Code, sec. 4-105);

(5) Section 1 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to assign officers and members of the Metropolitan Police force to duty in the detective bureau of the Metropolitan Police Department, and for other purposes", approved June 20, 1942, (56 Stat. 374; D.C. Code, sec. 4-106a);

(6) Section 4 of the Act entitled "An Act to amend an Act entitled 'An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes,' approved June 20, 1906, and for other purposes", approved January 24, 1920 (41 Stat. 398; D.C. Code, secs. 4-107 and 4-403);

(7) The ninth paragraph under the heading "General Expenses" of the Act entitled "An Act Making appropriations to provide for the expenses of the District of Columbia government for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes", approved March 3, 1909 (35 Stat. 689; D.C. Code, sec. 4-111);

(8) The Act entitled "An Act Granting relief to the Metropolitan police, and to the officers and members of the

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fire department of the District of Columbia". approved May 25, 1926, as amended (44 Stat. 535; D.C. Code, secs. 4-131 and 4-406);

(9) Sections 1 and 2 of the Act entitled "An Act To authorize the Commissioners of the District of Columbia to prescribe the area within which officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia may reside", approved July 25, 1956, as amended (70 Stat. 646; D.C. Code, secs. 4-132a and 4-409a);

(10) The Act entitled "An Act To authorize the establishment of a band in the Metropolitan Police force", approved July 11, 1947, as amended (61 Stat. 311; D.C. Code, secs. 4-182 through 4-184);

(11) Section 305(a) of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953, as amended (67 Stat. 101; D.C. Code, sec. 4-186);

(12) Sections 2, 3 and 5 of the Act entitled "An Act To classify the officers and members of the fire department of the District of Columbia, and for other purposes", approved June 20, 1906, as amended (34 Stat. 314; D.C. Code, secs. 4-402, 4-404 and 4-407);

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(13) Section 2 of the Act entitled, "An Act To amend the Act entitled 'An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes', approved June 20, 1906, and for other purposes", approved June 19, 1948, as amended (62 Stat. 498; D.C. Code, sec. 4-404a);

(14) Section 6 of the Act, entitled "An Act to amend the Act of June 19, 1948, relating to the workweek of the Fire Department of the District of Columbia, and for other purposes", approved October 5, 1961 (75 Stat. 832; D.C. Code, sec. 4-408a);

(15) Section 4 of the Act entitled "An Act to provide for a reduction in the workweek of the Fire Department of the District of Columbia and for other purposes", approved September 25, 1962 (76 Stat. 596; D.C. Code, sec. 4-408d);

(16) Provisions of section 12 of the Act entitled "An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved September 1, 1916, as amended (39 Stat. 718; D.C. Code, sec. 4-501 et seq.);

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(17) The Act entitled "An Act to punish false swearing before trial boards of the Metropolitan police force and fire department of the District of Columbia, and for other purposes", approved May 11, 1892, as amended (27 Stat. 29; D.C. Code, secs. 4-601 through 4-603);

(18) The Act entitled "An Act To provide recognition for meritorious service by the members of the police and fire departments of the District of Columbia", approved March 4, 1929, as amended (45 Stat. 1556; D.C. Code, sec. 4-701 et seq.);

(19) The District of Columbia Police and Firemen's Salary Act of 1958, as amended (72 Stat. 481; D.C. Code, sec. 4-824 et seq.);

(20) Section 4 of the Act entitled "An Act To fix salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia", approved July 1, 1930 (46 Stat. 840; D.C. Code, sec. 4-802);

(21) Sections 1, 2 and 3 of the Act entitled "An Act To provide for granting to officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia and the White House and United States Park Police forces additional compensation for working on

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holidays", approved October 24, 1951, as amended (65 Stat. 607; D.C. Code, secs. 4-807 4-808 and 4-809) insofar as it affects police officers and firefighters employed by the District of Columbia;

(22) Section 405 of the District of Columbia Police and Firemen's Salary Act of 1953, approved June 20, 1953, as amended (67 Stat. 76; D.C. Code, sec. 4-821);

(23) The Act entitled "An Act To provide seniority benefits for certain officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who are veterans of World War II and lost opportunity for promotion by reason of their service in the armed forces of the United States", approved July 1, 1947 (61 Stat. 240; D.C. Code, secs. 4-902 and 4-903);

(24) Section 1 of the Act entitled "An Act To provide a five day week for officers and members of the Metropolitan Police force, the United States Park Police force and the White House Police force", approved August 15, 1950, as amended (64 Stat. 447; D.C. Code, sec. 4-904) insofar as it affects police officers and firefighters employed by the District of Columbia;

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(25) Section 117(a) of Act entitled "An Act To amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes", approved August 29, 1972 (96 Stat. 641; D.C. Code, sec. 4-910);

(26) Paragraphs 3, 4 and 5 of section 1 of the Act entitled "An Act Relating to the Metropolitan Police of the District of Columbia", approved February 28, 1901, as amended (31 Stat. 819; D.C. Code, secs. 4-106, 4-121 and 4-122);

(27) The Act entitled "an Act to Authorize payment of allowances to three inspectors of the Metropolitan Police Force for the use of their privately owned motor vehicles, and for other purposes", approved June 25, 1947, as amended (61 Stat. 179; D.C. Code, sec. 4-108a);

(28) Sections 2, 3 and 4 of the Act entitled "An Act to authorize the establishment of a band in the Metropolitan Police Force", approved July 11, 1947, as amended (51 Stat. 311; D.C. Code, secs 4-182a, 4-183a and 4-183b); and

(29) Section 6 of the Act entitled "An Act providing a permanent form of government for the District of Columbia", approved June 11, 1878, as amended (20 Stat. 107; D.C. Code, sec. 4-123).

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(b)(1) Reorganization Order 39, June 18, 1953, as amended (relating to fire trial boards); and (2) Reorganization Order 48, June 26, 1953, as amended (relating to police trial and review boards).

(c) Notwithstanding any other provision of this section, no provision of law affecting the United States Park Police, Executive Protective Service or Secret Service shall be deemed to be affected.

Sec. 3204. Public Schools; Board of Education;  
University of the District of Columbia

(a) Paragraph (4) of subsection (b) of section 2 of the District of Columbia Elected Board of Education Act, approved April 22, 1968, as amended (82 Stat. 101; D.C. Code, sec. 31-101(b)(4)) is amended by striking "§1,200 per annum" and inserting in lieu thereof: "a sum as provided in section 1110 of the District of Columbia government Comprehensive Merit Personnel Act of 1978";

(b) Subsection (c) of section 405 of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974, as amended (88 Stat. 1430; D.C. Code, sec. 31-1735(c)) is repealed;

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(c) Section 2 of the District of Columbia Public School Food Service Act, approved October 8, 1951, as amended (65 Stat. 367; D.C. Code, sec. 31-1402) is amended as follows: (1) subsection (c) is amended by striking all that follows "Central Management"; and (2) subsection (e) is amended by striking "and volunteer personal service";

(d) The provisions of the District of Columbia Teachers' Salary Act of 1955, as amended (69 Stat. 521; D.C. Code, sec. 31-1501 et seq.) are deemed to be superseded for persons appointed on or after the date that this act becomes effective as provided in section 3602 of this act;

(e) Section 5 of title III of the District of Columbia Teachers' Salary Act of 1955 as amended (69 Stat. 525, approved August 5, 1955; D.C. Code, sec. 31-1522) is amended as follows: (1) subsections (b), (d)(1) and (e) are amended by striking the phrases: ", with the concurrence of the Board of Commissioners"; ", with the concurrence of the said Board of Commissioners"; ", subject to the concurrence of the said Board of Commissioners"; ", with cooperation of the Council"; ", with the cooperation of the Board of Commissioners of the District of Columbia"; ", with the cooperation of the Commissioners of the District of Columbia"; and (2) subsection (c) is superseded for persons

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appointed on or after the date that this act becomes effective as provided in section 3602 of this act;

(f) The District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974, as amended (88 Stat. 1423; D.C. Code, sec. 31-1701 et seq.) is amended as follows: (1) section 204 of such act (D.C. Code, sec. 31-1714) is amended to read as follows: "Sec. 204. Trustees shall receive compensation pursuant to the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, with a limit of four thousand dollars (\$4,000) per annum, while actually engaged in service as trustees."; (2) section 206 of such act (D.C. Code, sec. 31-1716) is amended by (A) amending subsection (j) by adding the following clause at the end of the first sentence thereof: ", subject to the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978."; (B) further amending subsection (j) by striking the second sentence thereof; and (C) striking subsection (k); and (3) section 207 of such act (D.C. Code, sec. 31-1717) is repealed;

(g) Subsection (f) of section 2 of the Act of June 20, 1906 (34 Stat. 317; D.C. Code, sec. 31-102) is repealed; and

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(n) Section 3 of the Act, entitled "An Act to fix and regulate the salaries of teachers, and other employees of the board of education of the District of Columbia" approved June 20, 1906, as amended (34 Stat. 317; D.C. Code, sec. 31-105), is amended by inserting immediately after the second sentence, "The Board of Education is authorized to delegate any of its authority to the superintendent. The superintendent is authorized to redelegate any of his or her authority subject to the approval of the Board.".

Sec. 3205. Conforming Amendments to Strike References to Federal Civil Service Laws and Provide Conformity with this Act; Repeal of Inconsistent Provisions

(a) Section 13(a) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935, as amended (49 Stat. 953; D.C. Code, sec. 46-313(a)) is amended: (1) by striking out "Subject to the Civil Service Act the" in the second sentence and inserting in lieu thereof "The"; and (2) by striking out the third sentence;

(b) The Act entitled "An Act to authorize funds for ceremonies in the District of Columbia", approved July 11, 1947, as amended (61 Stat. 314; D.C. Code, sec. 1-262) is amended by striking out "and without reference to section 1-808; or the civil service laws.;"

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(c) Section 5 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to appoint notaries public", approved December 15, 1944, as amended (58 Stat. 811; D.C. Code, sec. 1-518) is amended by striking out ", subject to the limitations of chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code (relating to the classification of government employees and related matters);"

(d) Section 9 of the Act entitled "An Act to define the term 'registered nurse' and to provide for the registration of nurses in the District of Columbia", approved February 9, 1907, as amended (34 Stat. 889; D.C. Code, sec. 2-408) is amended by: (1) striking out "in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code (relating to the classification of government employees and related matters)"; and (2) striking out the sentences which immediately follow the previous amendment;

(e) Section 8(n) of the Professional Engineers' Registration Act, approved September 19, 1950, as amended (54 Stat. 861; D.C. Code, sec. 2-1808(n)) is amended by striking out the fourth sentence;

(f) Section 16(a) of the District of Columbia Securities Act, approved August 30, 1964 (78 Stat. 632; D.C. Code, sec.

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2-2415(a)) is amended by striking out ", and such positions shall be subject to chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code (relating to the classification of government employees and related matters)";

(g) Section 2 of article II of the Act entitled "An Act to create a Recreation Board for the District of Columbia, to define its duties, and for other purposes", approved April 29, 1942, as amended (56 Stat. 262; D.C. Code, sec. 8-209) is amended:

(1) by striking out the second sentence of the fourth paragraph;

(2) by striking out "without reference to the Civil Service requirements, and" in the fifth paragraph;

(3) by striking out "at rates of pay to be fixed by the Board without reference to civil service requirements, and without regard to the prohibition against double salaries provided by section 58 of Title 5, U.S. Code, and without reference to Civil Service requirements, and" in the seventh paragraph; and

(4) by striking out the last paragraph;

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(h) Section 4 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934, as amended (48 Stat. 321; D.C. Code, sec. 25-104) is amended by striking out the sentence reading "The salaries of employees, other than members of the Board, shall be fixed in accordance with the provisions of chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters);

(i) The Act entitled "An Act to provide that compensation of members of the Alcoholic Beverage Control Board of the District of Columbia shall be fixed in accordance with the Classification Act of 1923, as amended", approved April 20, 1948 (62 Stat. 176; D.C. Code, sec. 25-104a) is repealed;

(j) Section 120(a) of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 227; D.C. Code, sec. 29-935(a)) is amended by striking out the third sentence;

(k) The first sentence of section 7 of the Act entitled "An Act to protect the lives and health and morals of women and minor workers in the District of Columbia, and to establish a Minimum Wage Board, and define its powers and

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duties and to provide for the fixing of minimum wages for such workers, and for other purposes", approved September 19, 1918, as amended (40 Stat. 962; D.C. Code, sec. 36-437) is amended by striking out "and whose compensation shall be fixed in accordance with chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters)";

(l) Section 6(b) of the District of Columbia Traffic Act, 1925, approved March 3, 1925, as amended (43 Stat. 1121; D.C. Code, sec. 40-603(b)) is amended by striking out the third sentence;

(m) Section 15 of the Act entitled "An Act to provide for the recording and releasing of liens by entries on certificates of title for motor vehicles and trailers, and for other purposes", approved July 2, 1940, as amended (54 Stat. 740; D.C. Code, sec. 40-715) is amended by striking out "subject to the limitations of chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters)";

(n) The second sentence of section 3 of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942, as amended (56 Stat. 93; D.C.

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Code, sec. 40-809) is amended by striking out all that follows "carry out the provisions of this Act";

(c) Paragraph 95 of section 8 of the Act entitled "An Act making appropriations to provide for the expenses of the District of Columbia government for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes", approved March 4, 1913 (37 Stat. 994; D.C. Code, sec. 43-206) is amended by striking out ", and to fix and pay their compensation within the appropriations provided by the Congress";

(d) The third paragraph of section 3 of the Act entitled "An Act to define, regulate, and license real estate brokers, business chance brokers, and real estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real estate transactions; and for other purposes", approved August 25, 1937, as amended (50 Stat. 788; D.C. Code, sec. 45-1403) is amended by striking out "in accordance with the provisions of chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters)";

(e) Section 1 of the Act entitled "An Act to provide for the appointment of a deputy disbursing officer and assistant

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disbursing officers for the District of Columbia, and for other purposes", approved July 30, 1951 (65 Stat. 127; D.C. Code, sec. 47-113a) is amended by striking out ", at compensation to be fixed in accordance with chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters);

(r) Section 610 of the District of Columbia Cigarette Tax Act, approved May 27, 1949, as amended (63 Stat. 139; D.C. Code, sec. 47-2809) is amended by striking out "in accordance with provisions of chapter 51 and subchapter III of Title 5, U.S. Code (relating to the classification of government employees and related matters);

(s) Subsection (a) of section 6 of the Commission on the Arts and Humanities Act (D.C. Law 1-22; D.C. Code, sec. 31-1905(a)) is amended by striking out "chapter 51 of Title 5, U.S. Code." and inserting in lieu thereof: "the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.;"

(t) Section 302 of the District of Columbia Act on Aging (D.C. Law 1-24; D.C. Code, sec. 6-1712) is amended by adding the following clause immediately following "chapter 51 of Title 5, U.S. Code (relating to the classification of

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government employees and related matters), but shall not be less than a GS-15, step one."; "or the equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.";

(u) Section 302 of the District of Columbia Latino Community Development Act (D.C. Law 1-86; D.C. Code, sec. 6-1912) is amended by adding the following clause to the end of the third sentence: "or equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.";

(v) The Act entitled "An Act to regulate the election of delegates representing the District of Columbia to national political conventions, and for other purposes", approved August 12, 1955, as amended (69 Stat. 699; D.C. Code, sec. 1-1101 et seq.) is amended as follows: (1) paragraphs (1) and (2) of subsection (c) of section (4) (D.C. Code, sec. 1-1104(c)(1) and (2)) are amended by striking the phrase "shall receive compensation at the rate of one hundred dollars (\$100) for each eight-hour period or twelve dollars and fifty cents (\$12.50) per hour, whichever provides less" and inserting in lieu thereof: "as provided in subsection 1108 of the District of Columbia Government Comprehensive

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Merit Personnel Act of 1978"; and (2) the first sentence of subsection (e) of section 5 (D.C. Code, sec. 1-1105(e)) is amended by striking all that follows: "District of Columbia,";

(w) The District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (88 Stat. 447; D.C. Code, sec. 1-1121 et seq.) is amended as follows: (1) Subsection (a) of section 301 of such Act (D.C. Code, sec. 1-1151(a)) is amended by striking "Such appointments shall be made without regard to the provisions of Title 5 of the United States Code, governing appointments in the competitive service." and adding the following to the end of the first clause of the sixth sentence thereof:" or equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978."; (2) subsection (b) of section 301 of such Act (D.C. Code, sec. 1-1151(b)) is amended by striking "without regard to the provisions of Title 5 of the United States Code, governing appointments in the competitive service.;" (3) subsection (i) of section 501 (D.C. Code, sec. 1-1171(i)) is amended by striking the phrase: ".officers and employees who hold an appointment in the General Schedule at grade GS-13 or higher, and employees who make field decisions as defined in paragraph (1) of

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subsection (b) of section 601 (D.C. Code, sec. 1-1182(b)(1)) who are employed by the Council of the District of Columbia" and inserting in lieu thereof: "and employees appointed under the authority of sections 901 through 903 or designated in section 908 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978."; (4) paragraph (1) of subsection (i) of section 601 (D.C. Code, sec. 1-1181(i)(1)) is amended by striking subparagraphs (B) and (C) (D.C. Code, sec. 1-1181 (i)(1)(B), (C)) ;" and inserting in lieu thereof: "or (B) an officer or employee of the District of Columbia government appointed under the authority of sections 901 through 903 or designated in section 908 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978."; (5) section 602 (D.C. Code, sec. 1-1182) is amended as follows: (A) subsection (a) (D.C. Code, sec. 1-1182(a)) is amended by striking the phrase: "and the head of each independent and subordinate agency of the District of Columbia government, and each person paid from funds appropriated to the Office of the Mayor or to the Council of the District of Columbia who occupies a position which is classified as a GS-13 or higher in the General Schedule under section 5332 of title 5 of the United States Code, and the City Administrator, and the General Counsel to the District of Columbia Board of

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Elections and Ethics, and the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics, and the People's Counsel of the District of Columbia and the auditor of the District of Columbia;" and inserting in lieu thereof: "and persons appointed under the authority of title X or section 901 through 903 or designated in section 908 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.;" and (B) paragraph (2) of subsection (d) (D.C. Code, sec. 1-1182(d)(2)) is amended by (i) striking the phrase "September 1, 1973" and inserting in lieu thereof: "March 1, 1979" and (ii) striking the phrase "January 1" and inserting in lieu thereof: "June 1";

(x) Section 5 of the "District of Columbia Business and Economic Development Act of 1975" (D.C. Law 1-97; D.C. Code, sec. 1-1354) is amended by adding the following clause immediately after "in accordance with Chapter 51 of Title 5, U.S. Code (relating to the classification of government employees and related matters), but shall be no less than a GS-16, step one.": "or equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.;"

(y) The "Education Licensure Commission Act of 1976" (D.C. Law 1-104; D.C. Code, sec. 31-2001 et seq.) is amended

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as follows: (1) Section 4.(f) is amended to read as follows:  
"Members of the Commission shall each be entitled to compensation pursuant to the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, up to a maximum of four thousand dollars (\$4,000) for any one (1) year. While away from their homes or regular places of business in the performance of the duties of the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence.";  
(2) section 5(b) of such act amended by striking "the merit promotion system of the Federal Civil Service Commission, established under sections 5335 and 5336 of Title 5 of the United States Code," and inserting in lieu thereof: "the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.;" and  
(3) section 5(c) of such act is amended by striking the last sentence of the subsection;

(2) Section 7 of the Act entitled "An Act Making Appropriations for the government of the District of Columbia and other activities chargeable in whole or part against the revenues of such District for the fiscal year ending June 30, 1945, and for other purposes", approved June 28, 1944, as amended (58 Stat. 532; D.C. Code, sec. 1-310a) is repealed;

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(aa) Section 702 of the District of Columbia Revenue Act of 1971, approved December 15, 1971 (85 Stat. 655; D.C. Code 1-321) is repealed;

(bb) Subsection (a) of section 9 of the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 621; D.C. Code, sec. 2-1726(a)) is amended by striking out all that follows "this Act";

(cc) The provisions of The District of Columbia Court Reform and Criminal Procedure Act of 1970, approved July 29, 1970 (relating to the Public Defender Service) (84 Stat. 654; D.C. Code, sec. 2-2221 et seq.) are amended as follows: (1) Section 304 of such Act (D.C. Code, sec. 2-2224) is amended by striking the fifth sentence thereof; and (2) section 305 of such Act (D.C. Code, sec. 2-2225) is amended by striking "without regard to chapter 51 and subchapter III of chapter 53 of Title 5 of the United States Code";

(dd) Section 7 of the Act entitled "An Act To Authorize certain programs and activities of the District of Columbia government, and for other purposes", approved October 25, 1973 (87 Stat. 505; D.C. Code, sec. 32-334) is amended by striking the final sentence thereof;

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(ee) Section 22 of the District of Columbia Uniform Narcotic Drug Act", approved June 20, 1938, as amended (52 Stat. 796; D.C. Code, sec. 33-422) is amended by striking out the second sentence in the second paragraph thereof;

(ff) Section 2 of the Act entitled "An Act to provide for Voluntary apprenticeship in the District of Columbia", approved May 21, 1946 (60 Stat. 204; D.C. Code, sec. 36-122) is amended by striking the last sentence thereof;

(gg) Subsection (b) of section 1 of the Act entitled "An Act to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes", approved January 2, 1975 (88 Stat. 1975; D.C. Code, sec. 43-205(b)) is amended by: (1) striking "Appointments to the position of People's Counsel shall be made without regard to the provisions of Title 5 of the United States Code, governing appointments in the competitive service.;" and (2) adding the following clause at the end of the third sentence thereof: "or equivalent compensation pursuant to title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.";

(hh) Section 93(b) of the District of Columbia Nonprofit Corporation Act, approved August 26, 1962 (76 Stat. 301;

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D.C. Code, sec. 29-1093(b)) is amended by striking the last sentence thereof;

(ii) Section 8 of the Act entitled "An Act Making appropriations to provide for the expense of the District of Columbia government for the fiscal year ending, June 30, 1922, and for other purposes", approved February 22, 1921 (41 Stat. 1144; D.C. Code, sec. 1-313) is repealed;

(jj) Section 7 of the Act entitled "An Act Making appropriations to provide for the expenses of the District of Columbia government for the fiscal year ending June 30, 1921, and for other purposes", approved June 5, 1920 (41 Stat. 873; D.C. Code, sec. 1-314) is repealed;

(kk) Section 717(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 820; D.C. Code, sec. 1-123(b)) is amended by striking ", except that, notwithstanding the provisions of section 752 of this Act, such authority to repeal shall not be construed as authorizing the Council to repeal or otherwise alter, by amendment or otherwise, any provision of subchapter III of chapter 73 of Title 5, United States Code, in whole or part.";

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(11) The second and third sentence of subsection (h) of section 7 of the "District of Columbia Boxing and Wrestling Commission Act" (D.C. Law 1-20; D.C. Code, sec. 2-1236(n)) are amended to read as follows: "The Commission shall be vested with power to issue subpoenas as to matters within its jurisdiction and enforce the same in the Superior Court of the District of Columbia.";

(mm) The "District of Columbia Boxing and Wrestling Commission Act", as amended (D.C. Law 1-20; D.C. Code, sec. 2-1231 et seq.) is amended as follows: (1) Section 5(f) of such act (D.C. Code, sec. 2-1234) is amended to read as follows: "The members of the Commission shall receive compensation pursuant to the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978."; and (2) Section 7(g) of such act (D.C. Code, sec. 2-1236(g)) is amended to read as follows: "The Commission shall have the power to employ such personnel as is necessary to carry out this act.";

(nn) Section 14 of the Act entitled "An Act providing for the Zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes", approved

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June 20, 1938, as amended (52 Stat. 802; D.C. Code, sec. 5-426) is amended by striking ", according to regulations of the Mayor of the District of Columbia of one hundred dollars (\$100) for each day actively spent performing the duties of such a member";

(oo) Subsection (d) of section 1 of the Act entitled "An Act To authorize the Commissioners of the District of Columbia to fix rates of compensation of members of certain examining and licensing boards and, commissions, and for other purposes", approved July 14, 1956 (70 Stat. 533; D.C. Code, sec. 1-254) is amended by striking the second sentence thereof and inserting in lieu thereof; "Payments made under this Act shall be governed by the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.;"

(pp) Section 12 of the Act entitled "An Act To provide for the examination and registration of architects, and to regulate the practice and architecture in the District of Columbia", approved December 13, 1924 (43 Stat. 714; D.C. Code, sec. 2-1012) is amended by striking all that follows "for his services";

(qq) Subsection (c) of section 2 of the Act entitled "An Act To create a board for the condemnation of insanitary

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buildings in the District of Columbia, and for other purposes", approved May 1, 1906, as amended (34 Stat. 157; D.C. Code, sec. 5-617(c)) is amended by striking out the last sentence thereof;

(rr) Section 426(a) of the District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974, as amended (88 Stat. 1055; D.C. Code, sec. 47-646(a)) is amended by inserting the clause "or equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978" immediately following "United States Code";

(ss) Section 5 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1925, as amended (44 Stat. 209; D.C. Code, sec. 3-105) is amended by striking out the colon and proviso in the fourth sentence and by striking out the sentences following the fourth sentence;

(tt) Section 3(e) of the Act entitled "An Act to authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes", approved August 11, 1950, as amended (64 Stat. 439; D.C.

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Code, sec. 5-1203(e)) is amended to read as follows: "(e) to employ such technical, clerical, stenographic, and other personnel and make such expenditures within appropriations thereof or from other funds made available for purposes of civil defense, as may be necessary to carry out the purposes of this Act";

(uu) Section 549 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, as amended (31 Stat. 1275; D.C. Code, sec. 45-702) is amended by striking out "The Commissioners of the District of Columbia are authorized to appoint a deputy recorder of deeds in accordance with the civil service laws and regulations and to fix his compensation in accordance with the Classification Act of 1949" and inserting in lieu thereof the following: "The Mayor of the District of Columbia is authorized to appoint a deputy recorder of deeds";

(vv) The Act entitled "An Act to amend, revise, and reenact section 549 of subchapter 4 of the Code of the District of Columbia, relating to the appointment of deputy recorder of deeds, and fixing the compensation thereof", approved March 3, 1925, as amended (43 Stat. 1102; D.C. Code, sec. 45-703) is amended as follows:

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(1) by striking out the first sentence and inserting the following in lieu thereof: "The Mayor of the District of Columbia is authorized to appoint a second deputy recorder of deeds."; and

(2) by striking out the third and fourth sentences; (xx) Section 301 of the District of Columbia Federal Payment Authorization and Borrowing Authority Act of 1957, approved November 3, 1967 (81 Stat. 340; D.C. Code, sec. 1-320), is repealed;

(xx) Subsection (e) of section 3 of the District of Columbia Alley Dwelling Act, as amended (48 Stat. 932; D.C. Code, sec. 5-105(e)) is amended by striking ", without regard to the Classification Act of 1949,";

(yy) Subsection (c) of section 14 of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946, as amended (60 Stat. 799; D.C. Code, sec. 5-713(c)) is amended by striking "such appointments and employments to be made in conformance with the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code (relating to the classification of government employees and related matters)";

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(zz) Sections 1, 2 and 3 of the Act entitled "An Act to provide for the bonding of certain officers and employees of the District of Columbia government, and for the payment of the premiums on such bonds by the District of Columbia, and for other purposes", approved July 7, 1955 (69 Stat. 281; D.C. Code, secs. 1-213 through 1-213b) are repealed;

(aaa) Section 2 of the Act entitled "An Act to increase the salaries of The Metropolitan Police, the United States Park Police, the White House Police, members of the Fire Department of the District of Columbia, and employees of the Board of Education of the District of Columbia", approved October 25, 1951 (65 Stat. 637; D.C. Code, sec. 1-251) is reworded as follows:

"Authority is hereby granted to the Secretary of the Interior and the President of the United States, in their discretion, to grant additional compensation at rates not to exceed those prevailing without regard to the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. sec. 665), additional compensation at rates not to exceed those prevailing in the District of Columbia for similar or comparable employment to each employee in or under the National Capital Parks and the Executive Mansion Grounds, whose compensation is fixed

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and adjusted from time to time by a wage board, or whose compensation is fixed without reference to chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code relating to the classification of government employees and related matters, or whose compensation is limited or fixed specifically by the provisions of the District of Columbia Appropriation Act, 1952.;"

(bbb) Section 86 of the Revised Statutes of the District of Columbia, approved June 20, 1874, as amended (18 Stat. 116; D.C. Code, sec. 1-316) is repealed;

(ccc) Organization Order 127, August 17, 1961, as amended, (relating to employee conduct) is repealed;

(ddd) Section 2 of the District of Columbia Law Revision Commission Act (88 Stat. 480; D.C. Code, sec. 49-401) is amended as follows: (1) subsection (g) is amended by striking "\$100" and inserting in lieu thereof "\$125"; (2) the final clause of subsection (h) is stricken; and (3) the fifth sentence of subsection (i) is amended by adding the following at the end thereof: "or equivalent compensation pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978";

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(eee) Section 4(f) of the Healing Arts Practices Act, District of Columbia, 1928, as amended (D.C. Code, sec. 2-103(f)) is amended by striking "at the rate of fifty dollars per day" and inserting in lieu thereof: "pursuant to the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978";

(fff) Section 209 of the "D.C. General Hospital Commission Act" (D.C. Law 1-134; D.C. Code, sec. 32-1319) is amended to read as follows: "Members of the Commission shall be reimbursed for actual and necessary expenses, while actually engaged in services for the Commission, pursuant to the provisions of section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, with a limit of four thousand dollars (\$4,000) per annum.;"

(ggg) Subsection (a) of section 6 of the Act entitled "An Act to regulate the election of delegates representing the District of Columbia to national political conventions, and for other purposes", approved August 12, 1955, as amended (59 Stat. 700; D.C. Code, sec. 1-1106(a)) is amended by adding the following clause at the end thereof: ", except as provided in the District of Columbia Government Comprehensive Merit Personnel Act of 1978.";

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(nnn) The third sentence of paragraph 97(a) of section 8 of the Act entitled "An Act Making appropriations to pay for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes", approved March 4, 1913, as amended (37 Stat. 995; D.C. Code, sec. 43-201) is amended to read as follows: "Each of the appointed commissioners shall receive a salary at the top step of grade 16, as provided in section 5332 of Title 5 of the United States Code, or equivalent compensation provided pursuant to the provisions of title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978. The Chairperson of the Commission shall serve as the chief administrative officer of the Commission.";

(iii) Section 3 of The Act entitled "An Act To provide for the designation of holidays for the office and employees of the government of the District of Columbia for pay and leave purposes, and for other purposes", approved July 18, 1958 (72 Stat. 377; D.C. Code, sec. 1-260) is repealed; and

(jjj) Section 5 of The Act entitled "An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia", approved June 3, 1896, as amended (29 Stat. 244; D.C. Code, sec. 37-105) is

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amended by striking the third and fourth sentences thereof and inserting in lieu thereof the following: "The said board of trustees shall appoint a librarian to have the care and superintendence of said library, in accordance with the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, who shall be responsible to the board of trustees for the impartial enforcement of all rules and regulations lawfully established in relation to the library. The said librarian shall appoint such assistants as the board shall deem necessary for the proper conduct of the library in accordance with the provisions of title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.".

Sec. 3206. Express\_Retention\_of\_Certain\_District\_of\_Columbia\_Laws.

The express provisions of the following District of Columbia laws shall continue in force and are not to be considered impliedly repealed in any manner by the provisions of this act.

(a) The provisions of Title 18 of the United States Code insofar as they affect employees of the District of Columbia government shall not be affected by this act: PROVIDED,

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HOWEVER, That this provision shall not be construed to prohibit coverage of volunteers under the provisions of title XXIII of this act;

(b) The provisions of the "Volunteers Services Act of 1977" (D.C. Law 2-12; D.C. Code, sec. 1-215a et seq.) shall continue in force except that volunteers shall be entitled to disability compensation as provided in title XXIII of this act.

(c) The provisions of "Dr. King's Birthday Act of 1977" (D.C. Law 2-13; D.C. Code, secs. 1-314(b), 1-314b note and 28-2701) shall continue in force.

(d) The Affirmative Action in the District Government Employment Act, as amended (D.C. Law 1-63; D.C. Code, sec. 1-320a) shall continue in force;

(e) The Human Rights Act of 1977 (D.C. Law 2-38; D.C. Code, sec. 6-2201 et seq.) shall continue in force; and

(f) The Metropolitan Police Officer Civil Rights Act (D.C. Law 2-71).

Sec. 3207. Miscellaneous Provisions

(a) Commissioner's Order 25, June 19, 1970; Resolution 75-3 of the District of Columbia Board of Higher Education.

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June 10, 1975; Chapter XVIII of the Rules of the District of Columbia Board of Education, November 6, 1975; and the September 1975 Armory Board policy relating to labor relations are deemed to be superseded by this act;

... (b) Any law, rule and regulation, Commissioner's Order, Mayor's Order, Mayor's Memorandum or any administrative rule and regulation which is inconsistent with or contrary to the provisions of this act is repealed or superseded to the extent of such inconsistency on or after the effective date of this act;

(c) Any provision of the District Personnel Manual (OPM) which, while not expressly repealed or inconsistent with any provision of this act, lacks a statutory basis under this act, is repealed on the effective date of this act; and

(d) Notwithstanding any other provision of this act, wherever Federal Merit System Standards are applicable to a District program financed in whole or in part by the federal funds, the Mayor shall establish rules and regulations to the extent necessary to apply such standards to personnel administration in such grant-in-aid programs and the positions and employees therein.

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(e) Sections 111, 112 and 203 of The Act entitled "An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for District of Columbia and for other purposes", approved September 3, 1974 (88 Stat. 1038; D.C. Code, secs. 4-838-839 and 31-1501a) are repealed.

Sec. 3208. Rules of Construction

In accordance with the express terms of this act, the following rules of construction will apply in the interpretation of provisions in apparent conflict:

(a) Title II will govern conflicting provisions;  
and

(b) A parenthetical limitation, upon provisions of a section or title preceding it, shall limit the scope of the section or title to the parenthetical provision.

TITLE XXXIII

APPROPRIATIONS

Sec. 3301. Authorization of Appropriations

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Appropriations necessary to carry out the purposes of this act are hereby authorized.

TITLE XXXIV

ANNUAL REPORT

Sec. 3401. Annual Report

Annually, not more than sixty (60) days after the completion of each fiscal year, the Mayor, the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall transmit to the Council a report indicating the accomplishments of the personnel system, major problems confronting the system and actions being taken or proposed to correct such deficiencies, a review of the more pertinent policies and rules and regulations issued, a statistical analysis of personnel actions and other information the Mayor and each Board deems pertinent. Sufficient copies of this report shall be made available to allow for public distribution.

TITLE XXXV

SEPARABILITY

Sec. 3501. Separability

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Should any provision of this act be declared unconstitutional, invalid or beyond the statutory authority of the Council of the District, the remaining provisions of this act shall be unaffected by such a declaration.

TITLE XXXVI

EFFECTIVE DATE PROVISIONS

Sec. 3601. Act Becomes Law

This act shall become law as provided for acts of the Council of the District of Columbia in paragraph (1) of subsection (c) of section 602 of the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 814; D.C. Code, sec. 1-147(c)(1)).

Sec. 3602. Effective Date Provisions

(a) The provisions of titles IX (except sections 904 and 907) and X, subsection (a) of section 501, subsection (a) of section 601 of this act and section 3603 of this title shall become effective fifteen (15) days after the date that this act becomes law as provided in section 3601 of this title.

(b) The provisions of section 3201 of this act shall become effective on the date that this act become law as provided in section 3601 of this title.

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(c) The provisions of section 1109 of this act shall become effective on the date that this act become law as provided in section 3601 of this title: PROVIDED, HOWEVER, That such provisions shall only apply to the Mayor, Chairman and Members of the Council taking the oath of office after January 1, 1979.

(d) The provisions of section 1113 of this act shall become effective on September 1, 1978, and shall apply to all negotiations for compensation as authorized under section 1715 of this act for compensation to be paid on and after January 1, 1980.

(e) The provisions of section 1114 of this act shall become effective on the date that this act becomes law as provided in section 3601 of this title, apply retroactively to compensation to be paid as provided therein after September 30, 1978, and expire on September 30, 1980: PROVIDED, HOWEVER, That if a collective bargaining agreement concerning compensation is entered into between appropriate personnel authorities (management) and recognized labor organizations for employees of the Metropolitan Police Department, the District of Columbia Fire Department, or the District of Columbia Board of Education which supersedes the provisions of section 1114 of this act, such provisions

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shall expire on the day after the date that the agreement's terms commence.

(f) The provisions of sections 2501 through 2511 of this act shall only become effective on the date on which the provisions of section 717(b) of the District of Columbia Self-Government and Governmental Reorganization Act (97 Stat. 820; D.C. Code, sec. 1-128(b)) are amended by the Congress to delete the restriction upon the Council's authority to amend provisions of subchapter III of chapter 73 of Title 5 of the United States Code.

(g) The provisions of section 2512 of this act shall not continue in force after the date the provisions of subsection (f) of this section become effective.

(h) The provisions of subsection (h) of section 3202 and of subsection (kk) of section 3205 of this act shall not become effective until the date the provisions of subsection (f) of this section become effective.

(i) The Office of Employee Appeals and the Public Employee Relations Board shall each issue rules and regulations for the conduct of their respective business, as provided in subsections 404(f) and 502(e), and subsections

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404(e) and 502(k), respectively, of this act within one hundred eighty (180) days of their appointment.

(j) The provisions of section 502k of this act shall be effected on the date following the day that the members of the Public Employee Relations Board have been appointed: PROVIDED, HOWEVER, That employees of the Public Employee Relations Board shall provide staff support to the Board of Labor Relations from the date of its taking office.

(k) The provisions of titles I, II, III, IV, VII, XV, XVIII, XX, XXI, XXII, XXIII, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXIII, XXXIV and XXXV, and sections 2512 and 2513 of this act shall become effective on April 1, 1979, or on the sixtieth (60th) day following the date that this act becomes law as provided in section 3601 of this title, whichever is later.

(l) The provisions of titles V, VI, XVI and XVII of this act shall become effective sixty (60) days after the date that rules and regulations are issued by the respective Office of Employee Appeals and the Public Employee Relations Board.

(m) The provisions of titles VIII, VIIIIA, XI, XII, XIII, XIV, XIX and XXIV of this act shall become effective on

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January 1, 1980: PROVIDED, HOWEVER, That any earlier date contained within such titles shall be effected.

(n) The provisions of sections 904 and 907 of this act shall become effective on January 1, 1980.

(o) The provisions of this section shall become effective on the date that this act become law as provided in section 3601 of this title.

(p) The provisions of title XXXII of this act shall become effective as follows:

(1) Subsections (a), (b), (c), (d), (e) and (f) of section 3202 of this act shall become effective on January 1, 1980;

(2) Subsections (g) and (i) of section 3202 of this act shall become effective as provided in subsection (l) of this section;

(3) Subsections (j) and (k) of section 3202 of this act shall become effective as provided in subsection (k) of this section;

(4) Section 3203 of this act shall become effective on January 1, 1980;

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(5) Section 3204 of this act shall become effective on January 1, 1980;

(6) Section 3205 of this act (except as provided in paragraph (7) of this subsection) shall become effective on January 1, 1980;

(7) Paragraphs (3), (4) and (5) of subsection (w) of section 3205 of this act shall become effective as provided in subsection (a) of this section;

(8) Section 3206 of this act shall become effective on the date that this act becomes law as provided in section 3501 of this title;

(9) Subsection (a) of section 3207 of this act shall become effective as provided in subsection (1) of this section;

(10) Subsection (d) of section 3207 of this act shall become effective on January 1, 1980;

(11) Subsection (e) of section 3207 of this act shall become effective as provided in subsection (d) of this section;

(12) Subsections (b) and (c) of section 3207 of this act shall become effective on March 1, 1980;

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(13) Section 3208 of this act shall become effective on the date that this act becomes law as provided in section 3601 of this title.

(q) Notwithstanding any other subsection of this section, any personnel authority or agency vested with authority to issue rules and regulations pursuant to section 404 of this act may issue such rules and regulations prior to the effective date of such authority.

(r) Persons performing personnel functions to be transferred to the Office of Personnel under the authority of section 407 of this act shall be transferred no later than ninety (90) days after the Office is created.

Sec. 3603. Implementation Task Force

(a) There is hereby established a Task Force on the Implementation of the Merit Personnel Act (hereinafter referred to in this section as the "Task Force") which shall be composed of the following members: (1) two (2) members appointed by the Mayor; (2) two (2) members appointed by the Greater Washington Central Labor Council; (3) two (2) members appointed by the Committee on Government Operations of the Council; and (4) one (1) member appointed by the

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Chairman of the Council of the District of Columbia. The members shall elect one (1) of their members as chairperson.

(b) Each member of the Task Force shall receive payment of one hundred dollars (\$100) for each eight (8) hours actually worked per diem or twelve dollars fifty cents (\$12.50) per hour, whichever provides less, while in the service of the Task Force. The members shall also receive reimbursement for the payment of actual expenses incurred in the service of the Task Force.

(c) The Task Force shall study and review the implementation of this act giving special attention to the implementation timetable set forth in this title. The Task Force shall advise the Mayor and the Council of the District of Columbia within ninety (90) days of the date of their appointment under subsection (d) of this section, as to the need for any adjustments in the timetables set forth in this title and the Council may, by act, modify such timetables. The Task Force may engage in other activities as provided in this subsection.

(d) Members of the Task Force shall be appointed from constituencies as provided in subsection (a) of this section within thirty (30) days of the date that this act becomes law as provided in section 3601 of this title. Any

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vacancies which occur in the membership of the Task Force shall be replaced from the same constituency represented by the member creating a vacancy. No person otherwise in the employ of the District government appointed to the Task Force may receive the per diem or hourly payment provided in subsection (b) of this section.

(e) The Task Force shall be disbanded no later than December 1, 1979.

**COUNCIL OF THE DISTRICT OF COLUMBIA**

**RECORD OF OFFICIAL COUNCIL ACTION**

DOCKET NO: Bill 2-10 (Act 2-300)

ACTION: Adopted First Reading 10-17-78

VOICE VOTE: Adopted Unanimously

Absent: DMoore, Hardy, Barry

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
Moore					Mason					Conrad, D. L.				
Winter					Young					Harrison				
Shackleton					Reed					Hardy				
Barry					Brown					Allen				
Hardy					Shanklin					Ward				
Conrad					Shackleton					Ward				

**CERTIFICATION OF RECORD**

*Robert Williams*  
Secretary to the Council

ACTION: Adopted Final Reading 10-31-78

VOICE VOTE: Adopted Unanimously

Absent: All Present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
Moore					Mason					Shackleton				
Winter					Young					Harrison				
Shackleton					Reed					Hardy				
Hardy					Brown					Allen				
Conrad					Shanklin					Ward				
Conrad					Shackleton					Ward				

**CERTIFICATION OF RECORD**

*Robert Williams*  
Secretary to the Council

ACTION:

VOICE VOTE:

Absent:

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
Moore					Mason					Shackleton				
Winter					Young					Harrison				
Shackleton					Reed					Hardy				
Hardy					Brown					Allen				
Conrad					Shanklin					Ward				
Conrad					Shackleton					Ward				

**CERTIFICATION OF RECORD**

Secretary to the Council

COUNCIL OF THE DISTRICT OF COLUMBIA

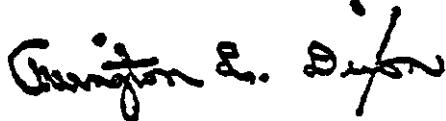
NOTICE

D. C. LAW 3-14

"District of Columbia Comprehensive Merit Personnel  
Act Amendments of 1979"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-114, on first and second readings, May 8, 1979 and May 22, 1979 respectively. Following the signature of the Mayor on June 8, 1979, this legislation was assigned Act No. 3-51, published in the June 15, 1979, edition of the D.C. Register, (Vol. 25 page 10565) and transmitted to Congress on June 13, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 3-14, effective August 1, 1979.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29

July 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25

26, 27, 30, 31

D.C. LAW 3-14

EFFECTIVE DATE AUG 01 1979

15

AN ACT

D.C. ACT 3-51

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 08 1979

To amend the District of Columbia Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139).

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.  
That this act may be cited as the "District of Columbia Comprehensive Merit Personnel Act Amendments of 1979".

Sec. 2. The District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139), is amended as follows:

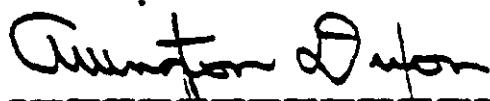
(a) Section 801(a)(1) is amended by inserting the phrase "other than an incumbent employee" after the words "any person".

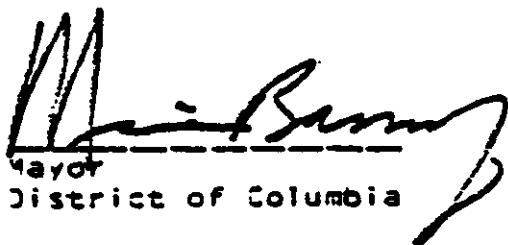
(b) Section 801A(d)(1) is amended by inserting the phrase "other than an incumbent employee" after the words "any person".

(c) Sections 2501 through 2511 are deleted entirely and the remaining sections are renumbered accordingly.

(d) In conformity with section 2(c) above, sections 3202(h), 3205(kk), 3502(f), (g) and (h) are deleted.

Sec. 3. This act shall take effect pursuant to the provisions of section 502(c) of the District of Columbia Self-Government and Governmental Reorganization.

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia

APPROVED: June 8, 1979

15

# COUNCIL OF THE DISTRICT OF COLUMBIA

## ~~SECOND~~ OF OFFICIAL COUNCIL ACTION

DOCKET NO: Bill 3-114

ACTION: To Adopt (5-8-79)

VOICE VOTE: Unanimous

Absent: Kane

ROLL CALL VOTE:

COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE
DIXON		KANE		SHACKLETON	
WINTER		MASON		SPAULDING	
CLARKE		MOORE		WTSON	
HARDY		RAY			
TARPLEY		ROTARK			

CERTIFICATION OF RECORD

*Kathleen Robinson*  
Secretary to the Council

ACTION: To Adopt (5-22-79)

VOICE VOTE: Unanimous

Absent: Hardy and Moore

ROLL CALL VOTE:

COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE
DIXON		FINE		SHACKLETON	
WINTER		MASON		SPAULDING	
CLARKE		MOORE		WTSON	
HARDY		RAY			
TARPLEY		ROTARK			

CERTIFICATION OF RECORD

*Kathleen Robinson*  
Secretary to the Council

ACTION: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE	COUNCIL MEMBER	VOTE
DIXON		FINE		SHACKLETON	
WINTER		MASON		SPAULDING	
CLARKE		MOORE		WTSON	
HARDY		RAY			
TARPLEY		ROTARK			

CERTIFICATION OF RECORD

Secretary to the Council

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 3-81

"District of Columbia Government Comprehensive Merit Personnel Act Amendments of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-236, on first and second readings, April 22, 1980 and May 20, 1980, respectively. Following the signature of the Mayor on June 4, 1980, this legislation was assigned Act No. 3-195, published in the June 20, 1980, edition of the D.C. Register, (Vol. 27 page 2632) and transmitted to Congress on June 10, 1980 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites this enactment as D.C. Law 3-81 effective August 7, 1980.

*Arrington D. Dixon*

ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30

July 1, 2, 21, 22, 23, 24, 25, 28, 29, 30, 31

August 1, 4, 5, 6

D.C. LAW 3-81  
EFFECTIVE DATE AUG 7 1979

Enrolled Original

AN ACT

D.C. ACT 3-195

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 04 1980

To amend the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139, with respect to the rate of compensation paid to members of boards and commissions; the appointment of attorneys; the transfer of personnel and cases from the Board of Labor Relations to the Public Employee Relations Board; the temporary continuation of authority in the Mayor to hear administrative personnel appeals; the provisions of Title XXIII relating to disability compensation; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "District of Columbia Government Comprehensive Merit Personnel Act Amendments of 1980".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331 et seq.) is amended as follows:

(a) Section 202(c) is amended to read as follows:

CODIFICATION  
D.C. Code,  
sec. 1-332.2

-2-

"(c) Except as otherwise provided in this act, each member of a board or commission appointed to perform part-time, temporary or intermittent duties is entitled to pay as provided in section 1108 of this act. Full-time employees who serve on boards and commissions shall be paid in accordance with the provisions of sections 1104 or 1111 of this act. Members of boards and commissions are covered by the provisions of titles XVIII, XXIII, XXV, XXIX, XXX, and XXXI and sections 408 and 801(e) of this act and shall, if eligible under the terms of an agreement entered into by the Mayor and a federal agency under the provisions of title XXVIII of this act, be covered by the provisions of titles XXI, XXII, and XXVI of this act. This section shall not apply to compensation received by the Board of Education as provided in section 1110 of this act.".

(b) Section 204(c) is amended by striking the phrase "VIIIA or section 904" and inserting the phrase "VIIIA or sections 904 or 909" in lieu thereof.

(c) Section 301(b) is amended to read as follows:

D.C.Code,  
sec. 1-332.4

D.C.Code,  
sec. 1-333.1

-3-

"(b) The term 'boards and commissions' means bodies established by law or by order of the Mayor of the District of Columbia consisting of appointed members to perform a trust or execute official functions on behalf of the District of Columbia government. Compensation or reimbursement of expenses, if any, to such members shall be provided according to section 1108 of this act: PROVIDED, HOWEVER, That full-time employees shall be paid in accordance with the provisions of sections 1104 or 1111 of this act."

(d) Section 503 is amended by changing the heading thereof to "Transition Procedures" and by adding at the end of the section a new subsection (c) to read as follows:

D.C.Code,  
sec. 1-335.3

"(c) All cases pending before the Board of Labor Relations shall be transferred to the Public Employee Relations Board on the effective date of titles V and XVII of this act as prescribed by section 3602(l) of this act. The Public Employee Relations Board, with respect to any such transferred case, shall take such action as could have been taken by the Board of Labor Relations pursuant to labor-management relations

-4-

programs as they existed when the case was filed, including those programs referred to in section 3207(a) of this act.".

(e) Section 501(f) is amended to read as follows:

D.C.Code,  
sec. 1-336.1

"(f) Each member of the Office is entitled to compensation at the rate of one hundred twenty-five dollars (\$125) per diem or fifteen dollars sixty-two cents (\$15.62) per hour whichever provides less, while actually in the service of the Office. Should a member serve in excess of eight (8) hours on a particular day, such member may be paid additional compensation for such period of service, to a maximum of two (2) per diem payments for any consecutive twenty-four (24) hour period. Adjustment to such rates of compensation shall be made in accordance with section 1108(b) of this act.".

(f) Section 703(a) is amended by striking the phrase "conditions 511(d)" and inserting the phrase "conditions as provided under section 511(d)" in lieu thereof.

D.C.Code,  
sec. 1-337.3

-5-

(q) Section 801(e)(3) is amended by striking the phrase "of paragraph (3)" and inserting the phrase "of paragraph (2)" in lieu thereof.

D.C.Code,  
sec. 1-338.1

(h) Section 801A is amended as follows: (a) in subsection (b)(2)(D) by striking the phrase "paragraphs (1), (2) and (3) of this subsection" and inserting the phrase "subparagraphs (A), (B), and (C) of this paragraph" in lieu thereof; (b) in subsection (b)(2)(E), (F), and (G) by striking the phrase "paragraph (4) of this subsection" and inserting the phrase "subparagraph (D) of this paragraph" in lieu thereof wherever it appears; and (c) in subsection (d)(3) by striking the phrase "paragraph (3)" and inserting the phrase "paragraph (2)" in lieu thereof.

D.C.Code,  
sec. 1-338.2

(i) Section 902 is amended by deleting the phrase "section 904(a) and (b) of this act" and inserting the phrase "sections 904(a) and (b) or section 909 of this act".

D.C.Code,  
sec. 1-339.2

(j) A new section 909 is added at the end of title IX to read as follows:

D.C.Code,  
sec. 1-339.9

"Sec. 909. Appointment of Attorneys  
All individuals hired as attorneys by the Mayor, an agency under the personal authority of

-6-

the Mayor, or any independent agency shall meet qualification and classification standards and shall enjoy such employment rights as are in effect for individuals appointed as attorneys by the Mayor, an agency under the personnel authority of the Mayor, or an independent agency on December 31, 1979.".

(k) Section 1108 is amended to read as follows:

D.C.Code;  
sec. 1-341.8

"(a) Each member of any board or commission who receives compensation or reimbursement of expenses on January 1, 1980, shall receive such rates of compensation or reimbursement of expenses as are provided in existing law, rule, regulation or order, or in this act, except as may be modified from time to time by rules and regulations published pursuant to section 1108(b).

"(b) The Mayor of the District of Columbia is authorized to establish by rule and regulation the rates of compensation or reimbursement of expenses for members of any board or commission, including any board or commission established after January 1, 1980. Any such rules

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and regulations proposed by the Mayor shall be transmitted to the Council of the District of Columbia for a thirty (30) day (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) review period. Such rules and regulations shall become effective only if the Council of the District of Columbia does not adopt, within thirty (30) days (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) from the date of the Mayor's submission, a resolution disapproving such rules and regulations in whole or in part. Notwithstanding the provisions of section 405 of this act, rules and regulations published under this subsection shall be effective no earlier than thirty (30) days after their publication in the District of Columbia Register.".

(1) Section 1111(c) is amended by striking the phrase "fear or" and inserting the phrase "fear of" in lieu thereof.

D.C.Code,  
sec. 1-341.11

(m) Section 1112(b) is amended by striking the phrase ", as provided in section 3602(c)(1), (2) and (3)." .

D.C.Code,  
sec. 1-341.12

-8-

(n) Section 1112(c) is amended to read as follows: "Adjustments to the rate of compensation provided in this section shall be made in accordance with section 1108(b) of this title.".

D.C.Code,  
sec. 1-341.12

(o) Section 1203(m)(2) is amended by striking the reference "601 et seq." and inserting the reference "608" in lieu thereof.

D.C.Code,  
sec. 1-342.3

(p) Section 2306(c) is amended to read as follows:

D.C.Code,  
sec. 1-353.6

"(c) a partially disabled employee who--

"(1) refuses to seek suitable work;

or

"(2) refuses or neglects to work after suitable work is offered to, procured by or secured for him or her, is not entitled to compensation and such payment shall be suspended.".

(q) Section 2307(c)(5) is amended by striking the phrase "one hundred six (106)" and inserting the phrase "one hundred sixty (160)" in lieu thereof.

D.C.Code,  
sec. 1-353.7

(r) Section 2310(a) is amended by striking the phrase "Notwithstanding Paragraph (3)" and

D.C.Code,  
sec. 1-353.10

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inserting the phrase "Notwithstanding Paragraph (2)" in lieu thereof.

(s) Section 2313(d) is amended to read as follows:

"If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 2304 of this title, the Mayor may review such failure under section 2328 of this title. If the Mayor upon review, finds that in the absence of such failure the wage-earning capacity of the individual would probably have substantially increased, the Mayor may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his or her wage-earning capacity in the absence of the failure, until such time as the individual in good faith complies with the direction of the Mayor.".

(t) Section 2316(a)(4) is amended by striking the phrase "subchapter II" and inserting the phrase "subchapter III" in lieu thereof.

(u) Section 2316(b) is amended by striking the phrase "purchased entirely by employee contributions".

D.C.Code,  
sec. 1-353.13

D.C.Code,  
sec. 1-353.16

D.C.Code,  
sec. 1-353.16

-10-

(v) Section 2317(3) is amended by striking the phrase "first two (2) days" and inserting the phrase "first three (3) days".

D.C.Code,  
sec. 1-353.17

(w) Section 2318(a) is amended by striking the phrase "paragraph (1)" and inserting the phrase "subsection (a)" in lieu thereof and by striking the phrase "(other than those referred to in subparagraph (B))".

D.C.Code,  
sec. 1-353.18

(x) Section 2321(f) is amended by striking the phrase "paragraphs (3) through (6)" and inserting the phrase "subsections (c) through (f)" in lieu thereof.

D.C.Code,  
sec. 1-353.21

(y) Section 2322 is amended by striking out the number "eighteen (18)" and inserting the number "twenty-one (21)" in lieu thereof.

D.C.Code,  
sec. 1-353.22

(z) Section 2324(b)(2) is amended by inserting immediately following the word "procedure," the phrase "or by the provisions of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (92 Stat. 1208; D.C. Code, sec. 1-1501 et seq.)".

D.C.Code,  
sec. 1-353.24

(aa) Section 2328 is amended by adding at the end a new subsection (c) as follows:

D.C.Code,  
sec. 1-353.28

-11-

"(c) Notwithstanding subsection (b) of this section, an action in which the United States Department of Labor (or other federal authority) participated at any stage of the adjudication allowing or denying payment under this title pursuant to an agreement with the District of Columbia is:

"(1) final and conclusive for all purposes and with respect to all questions of law or fact, and

"(2) not subject to review by a court by mandamus or otherwise.".

(bb) Section 2332 is amended by inserting immediately following the phrase "shall refund to the District of Columbia government" the phrase "the amount of compensation paid by the District of Columbia government"; and by striking the phrase "distribution, an amount" and inserting the phrase "distribution, to retain an amount" in lieu thereof.

D.C.Code,  
sec. 1-353.32

(cc) Section 2337(a)(2) is amended by striking the phrase "place irrespective of the basis adopted, the Mayor may at any time;" and inserting the phrase "place. Irrespective of the

D.C.Code,  
sec. 1-353.37

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basis adopted, the Mayor may at any time:" in lieu thereof.

(dd) Section 2343 is amended by striking the phrase "shall have such leave restored to his or her credit at no cost to the employee" and inserting the phrase "may have such leave restored to his or her credit" in lieu thereof.

D.C.Code,  
sec. 1-353.43

(ee) Section 2502 is amended by striking the phrase "Except as provided in section 2603 of this act, existing" and inserting the word "Existing" in lieu thereof.

D.C.Code,  
sec. 1-356.2

(ff) Section 2805 is added to read as follows:

D.C.Code,  
sec. 1-358.5

"The Mayor is authorized to enter into agreements with appropriate federal agencies to authorize them to continue the processing of administrative appeals of personnel actions by District government employees, until such time as the rules and regulations of the Office of the Employee Appeals are issued and the provisions of title XVI of this act become effective. The agreement of the Mayor may provide for the existing standards of cause for disciplinary

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actions to continue in effect for the duration of the agreement.".

(qq) Sections 3204(f)(1), 3205(v)(1), 3205(y)(1), 3205(mm)(1), 3205(nn), 3205(qq), 3205(ddd)(1), 3205(eee), and 3205fff) are deleted.

(nn) Section 3207(a) is amended to read as follows:

"(a) Commissioner's Order No. 70-229 (Organization Order No. 25), June 19, 1970; Interim Labor Management Relations Policy for the University of the District of Columbia, May 4, 1978, 24 D.C.R. 1004; Sections 600 through 619 of the Rules of the District of Columbia Board of Education, January 18, 1978, 24 D.C.R. 6445-5475; the September 1975 Armory Board policy relating to labor relations; and any other labor-management relations policy inconsistent with this act are deemed to be superseded by this act: PROVIDED, HOWEVER, That nothing herein shall preclude the Mayor, the Board of Trustees of the University of the District of Columbia, the Board of Education or the Armory Board from adopting new labor relations policies that are not inconsistent with

D.C.Code,  
secs. 31-1714, 1-11  
31-2004, 2-1234,  
5-426, 5-617, 49-40.  
2-103, & 32-1319

D.C.Code,  
sec. 1-362.5

-14-

this act or with regulations issued by the Public Employee Relations Board pursuant to this act.".

(ii) Section 3602 is amended as follows: (1) subsection (a) is amended by striking the phrase "and 907" and inserting the phrase ", 907, and 909" in lieu thereof; (2) subsection (j) is amended by striking the word "502k" and inserting the word "503" in lieu thereof; (3) subsection (l) is amended by inserting immediately following the phrase "and XVII" the phrase "and section 3203(b)"; (4) subsection (n) is amended by striking the phrase "and 907" and inserting the phrase ", 907, and 909" in lieu thereof; (5) subsection (o) is amended by adding a new paragraph at the end thereof which reads as follows: "(14) Section 3203(a) and (c) shall become effective on January 1, 1980.";

(iii) The table of contents is amended by (1) striking the phrase "Transfer of Property and Personnel" and inserting the phrase "Transition Procedures" in lieu thereof; (2) adding a new section 909 to the list of section headings at the end of title IX to read as follows:

D.C.Code,  
sec. 1-366.1

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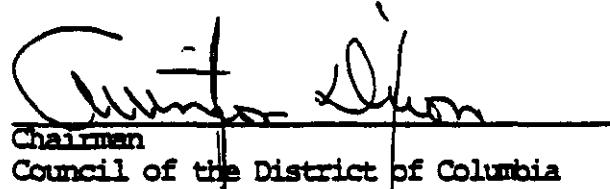
"Appointment of Attorneys"; and (3) adding a new section 2805 to the list of section readings at the end of title XXVIII to read as follows:

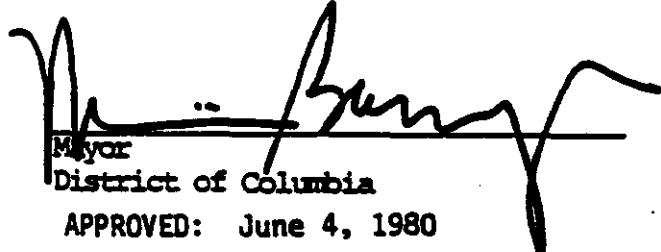
"Agreements for Disciplinary Appeals".

Sec. 3. The amendments made by section 2(d) through (dd) of this act shall not apply to applications for disability compensation filed between May 3, 1979, and August 16, 1979, and on February 19, 1980.

Note,  
D.C.Code,  
sec. 1-353.46

Sec. 4. This act shall take effect after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED: June 4, 1980

**COUNCIL OF THE DISTRICT OF COLUMBIA**

**RECORD OF OFFICIAL COUNCIL ACTION**

DOCKET NO: Bill 3-236

ACTION: To Adopt (4-22-80) First Reading

VOICE VOTE: Unanimous

Absent: All Present

ROLL CALL VOTE:

COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVITIS					ROLARK									

**CERTIFICATION OF RECORD**

*John P. Brooks*  
Secretary to the Council

ACTION: To Adopt (5-20-80) Final Reading

VOICE VOTE: Unanimous

Absent: Hardy

ROLL CALL VOTE:

COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVITIS					ROLARK									

**CERTIFICATION OF RECORD**

*John P. Brooks*  
Secretary to the Council

ACTION: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST	COUNCIL MEMBER	AVG	MAP	M.V.	ABST
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVITIS					ROLARK									

**CERTIFICATION OF RECORD**

Secretary to the Council

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 3-109

"Independent Personnel Systems Implementation Act of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-291, on first and second readings, July 15, 1980 and July 29, 1980, respectively. Following the signature of the Mayor on July 31, 1980, this legislation was assigned Act No. 3-234, published in the August 29, 1980, edition of the D.C. Register, (Vol. 27 page 3785) and transmitted to Congress on August 1, 1980 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, certifies this enactment as D.C. Law 3-109 effective September 26, 1980.

  
ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

August 1, 4, 5, 6, 18, 19, 20, 21, 22, 25, 26, 27, 28

September 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25

D.C. LAW 3-109  
BEGINS SEP 26 1980

Enrolled Original

AN ACT

D.C. ACT 3-234-

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 31 1980

To authorize the Mayor to set rates of pay for certain employees of the District of Columbia government; to grant to the Mayor the power to subpoena witnesses; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 regarding furloughs; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Independent Personnel Systems Implementation Act of 1980."

Sec. 1. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code sec. 1-331 et seq.) is amended as follows:

- (a) The first sentence of section 3202 (D.C. Code, sec. 1-362.2) is amended to read as follows:  
"The following provisions of title 5 of the United States Code are succeeded for all employees of the District of Columbia Government;"

~~AMENDMENT~~  
~~D.C. Code,~~  
~~sec. 1-362.2~~

District of Columbia Government;

-2-

- (b) The following paragraph is added at the end of  
section 3202 (D.C. Code sec. 1-362.02) to read as follows:
- "notwithstanding the provisions of Title xxxii of  
the District of Columbia Government Comprehensive  
Merit Personnel Act of 1978 (D.C. Code, sec. 1-  
362.1 ~~et seq.~~) or Titles I or the Unified States  
Code, the Mayor is authorized to establish rates of  
pay for employees in the Career, Executive and  
Executive Services of the District of Columbia  
Government. Such rates of pay shall be established  
in accordance with the provisions of Title XI of  
the District of Columbia Government Comprehensive  
Merit Personnel Act of 1978 (D.C. Code, sec. 1-  
362.1 ~~et seq.~~)."
- Sec. 3 (3). The Mayor of the District of Columbia shall  
have the power to issue subpoenas witness to appear and  
testify and/or to produce all books, records, papers or  
documents in any investigation or examination of any  
municipal matter with respect to functions transferred to  
the Mayor by Reorganization Plan No. 3 of 1967 or by the  
District of Columbia Self-Government and Governmental  
Reorganization Act, approved December 26, 1973 (A.R. Stat.  
777; D.C. Code, sec. 1-121 et seq.); or  
dishes under contract those employed by the District of

D.C. Code,  
sec. 1-362.

D.C. Code,  
sec. 1-244.1

*For Collected Original*

-3-

Columbia subpoenaed to appear before the Mayor shall be entitled to reasonable fees as established by regulations issued by the Mayor of the District of Columbia, but said fees need not be tendered said witness in advance of their appearing and testifying and/or producing books, records, papers or documents.

(b) Any willful false swearing on the part of any witness before the Mayor of the District of Columbia as to any material fact shall be deemed perjury and shall be punished in the manner prescribed by law for such offense.

(c) If any witness having been personally summoned shall neglect or refuse to obey the subpoena issued pursuant to subsection (a) then in that event, the Mayor of the District of Columbia may report that fact to the Superior Court of the District of Columbia or one of the judges thereof and said court, or any judge thereof, is empowered to compel obedience to said subpoena to the same extent as witnesses may be compelled to obey the subpoenas of that court.

(d) The Mayor of the District of Columbia is authorized to administer oaths to witnesses summoned in any investigation or examination as set out in subsection (a).

Sec. 4. The District of Columbia Government Comprehensive Merit Personnel Act of 1973, effective March

*Enrolled Original*

-4-

3. 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331 et seq.) is amended as follows:

(a) Section 1601(b) (D.C. Code, sec. 1-346.1(b)) is amended by deleting the phrase ", furloughed without pay".

D.C.Code,  
sec. 1-346

(b) The first sentence of section 2401 (D.C. Code, sec. 1-354.1) is amended to read as follows: "The Mayor and the District of Columbia Board of Education shall issue rules and regulations establishing a procedure for the orderly furloughing or termination of employees, taking full account of non-discrimination provisions and objectives' objectives of this act".

D.C.Code,  
sec. 1-354

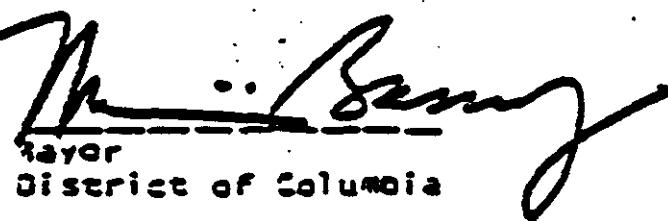
*Enrolled Original*

-5-

Sec. 5. This act shall take effect after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

Approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia

APPROVED: July 31, 1980

COUNCIL OF THE DISTRICT OF COLUMBIA

~~SECRET COUNCIL ACTION~~

DOC# No: B 3-291

ACTION: Adopted First Reading 7-15-79

voice vote: Majority (Roll Call Voted No)

Absent: Moore

ROLL CALL VOTE:

DIXON				KANE				ISEACKE			
GORDON				MASON				STAUBLING			
HARRIS				MOORE				WILLSON			
WADDELL				REED				WILLSON			
WATKINS				ROBERTS				WILLSON			

*[Signature]*  
Secretary to the Council

ACTION: Adopted Final Reading 7-29-80

voice vote: Unanimous

Absent: all present

ROLL CALL VOTE:

DIXON				KANE				ISEACKE			
GORDON				MASON				STAUBLING			
HARRIS				MOORE				WILLSON			
WADDELL				REED				WILLSON			
WATKINS				ROBERTS				WILLSON			

*[Signature]*  
Secretary to the Council

ACTION:

voice vote:

Absent:

ROLL CALL VOTE:

DIXON				KANE				ISEACKE			
GORDON				MASON				STAUBLING			
HARRIS				MOORE				WILLSON			
WADDELL				REED				WILLSON			
WATKINS				ROBERTS				WILLSON			

COUNCIL OF THE DISTRICT OF COLUMBIA

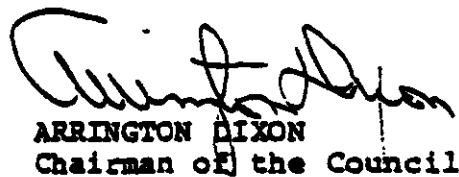
NOTICE

D.C. Law 3-130

"District of Columbia Government Comprehensive Merit Personnel Act Pay Provisions Amendments of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-377 on first and second readings, November 25, 1980 and December 9, 1980, respectively. Following the signature of the Mayor on January 7, 1981, this legislation was assigned Act No. 3-339, published in the January 16, 1981 edition of the D.C. Register, (Vol. 28 page 277) and transmitted to Congress on January 13, 1981 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 3-130, effective March 4, 1981.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	13, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30
February	2, 3, 4, 5, 6, 17, 18, 19, 20, 23, 24, 25, 26, 27,
March	2, 3

*Original*

D.C. LAW 3- 130  
EFFECTIVE DATE MAR 04 1981

AN ACT

D.C. ACT 3-339

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 07 1981

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to modify the standards for compensation setting, to authorize the Mayor to make changes to the compensation system or adjustments in the rates of pay based on a consideration of economic conditions and budgetary constraints, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Government Comprehensive Merit Personnel Act Pay Provisions Amendments of 1980".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-331.1 ~~et seq.~~) is amended as follows:

(a) Section 1101(c) (D.C. Code, sec. 1-341.1(c)) is amended by striking the period in the second sentence and inserting the following proviso :- PROVIDED. That the classification system

CODIFICATION  
D.C. Code,  
sec. 1-341.1

or systems in effect on December 31, 1979, shall remain in effect until the adoption of a classification system or systems pursuant to section 1102 or 1111 of this title." in lieu thereof.

(b) Section 1103(a)(1) (D.C. Code, sec. 1-341.3(a)(1)) is amended to read as follows:

D.C.Code,  
sec. 1-341.3

"(1) Compensation shall be competitive with that provided to other public sector employees having comparable duties, responsibilities, qualifications, and working conditions by occupational groups. For the purpose of this paragraph, compensation shall be deemed to be competitive if it falls reasonably within the range of compensation prevailing in the Washington, D.C. Standard Metropolitan Statistical Area (SMSA): PROVIDED, That compensation levels may be examined for public and/or private employees outside the area and/or for federal government employees when necessary to establish a reasonably representative statistical basis for compensation comparisons, or when conditions in the local labor market require a larger sampling of prevailing compensation levels."

(c) Section 1104 (D.C. Code, sec. 1-341.4) is amended to read as follows:

"Sec. 1104. Establishment of a Basic Compensation System for Career and Excepted Services Employees.

D.C.Code,  
sec. 1-341.4

"(a) The Mayor shall develop in consultation with the Board of Education and the Board of Trustees of the University of the District of Columbia, a new compensation system for all employees in the Career and Excepted Services. Any comments that either the Board of Education or the Board of Trustees of the University of the District of Columbia wish to make on the proposed system shall be presented along with the proposed pay system submitted by the Mayor.

"(b) This new system shall include, but need not be limited to, provisions for basic day-pay increases based on quality and length of service, premium pay, allowances, and severance pay.

"(c) The Mayor shall provide for appropriate consultations with employee

organizations in the development of the new compensation system for Career Service employees.

"(d) The Mayor shall submit any proposed new compensation system to the Council for approval under the provisions of section 1106 of this act.

"(e) Until such time as a new compensation system is approved, the compensation system, including the salary and pay schedules, in effect on December 31, 1979, shall continue in effect: PROVIDED, That pay adjustments shall be made in accordance with the policy stated in section 1103 of this title.

"(f) For the purpose of subsections (a) through (d) of this section, the term "compensation system shall not include salary or pay schedules."

(d) Section 1105 (D.C. Code, sec. 1-341.5) is amended:

D.C.Code,  
sec. 1-341.5

(1) by amending subsection (d) to read as follows:

"(d) The Mayor, in consultation with the personnel authorities named in subsection (a) of this section, shall consider, on an annual

basis, changes in the compensation system or systems and in the salary and pay schedules under such system or systems, and shall submit adjustments, if any, to the Council pursuant to section 1106 of this title on September 30, 1980, and on the first day in September that the Council is in session, of each year thereafter.;"

(2) by amending subsection (e) to read as follows:

"(e) If, because of economic conditions, the tendency of collective bargaining, or budgetary constraints due to limited appropriations or revenues, the Mayor should, in any year, consider it inappropriate to submit a proposed change, or to make the adjustment in the salary or pay schedules pursuant to subsection (d) of this section, an alternative plan may be submitted with respect to such changes or adjustments as the Mayor considers appropriate with a statement of the reasons therefor."; and

(3) by striking subsection (f).

(e) Section 1106 (D.C. Code, sec. 1-341.6) is amended:

D.C.Code,  
sec. 1-341.6

(1) by amending subsection (a) to read as follows:

"(a) If the Council by resolution approves, without revision, the new compensation system or systems, or any later changes in such system or systems or in the salary or pay schedules under the system or systems proposed in accordance with section 1104 or section 1105 of this title, the schedules shall become effective on the first day of the pay period beginning on or after October 1 in the year in which the Mayor submits his or her pay changes as provided in subsection (c) of section 1105 of this title. If the Council takes no action on the Mayor's proposed change within sixty (60) calendar days of the submission thereof, such change shall be deemed to have been approved by the Council on the day next following the expiration of this sixty (60)-day period.;

(2) in subsection (c) by deleting the word "insists" and inserting the phrase "adopts a resolution insisting" in lieu thereof; and

(3) by adding at the end thereof the following new subsections:

"(d) Retroactive pay is payable by reason of an increase in the salary or pay schedules under this section only where:

"(1) the individual is in the service of the District of Columbia government on the date of final action by the Council on the increase; or

"(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of final action by the Council on the increase, and only for the services performed during that period.

"(e) If the final action of the Council pursuant to this section occurs after the first day of the pay period commencing on or after October 1, 1980, such action shall take effect retroactively and the schedules shall be adjusted in accordance with subsection (a) of this section".

(f) Section 1113 (D.C. Code, sec. 1-341.13) is redesignated as section 1717.

D.C.Code,  
sec. 1-347.17

(g) Title XI (D.C. Code, sec. 1-341.1 et seq.) is amended by adding the following new sections at the end thereof:

"Sec. 1115. Pay Limitations for Fiscal

Year 1981.

D.C.Code,  
sec. 1-341.15

"(a) For the period beginning October 1, 1980, and ending on the last day of the pay period that contains September 30, 1981, the basic pay for an employee in the Career or Executive Service shall not exceed \$50,112.50 per annum.

"(b) For the period beginning October 1, 1980, and ending on the last day of the pay period that contains September 30, 1981, or until an Executive Pay Plan is established by the Council pursuant to section 1107 of this title, the basic pay for an employee in the Executive Service shall not exceed \$50,112.50 per annum.

"(c) For the period beginning October 1, 1980, and ending September 30, 1981, the basic pay for an employee of the Board of Education shall not exceed \$50,112.50 per annum: EXCEPT, That of the Superintendent of Schools, which shall not exceed \$55,400.00 per annum.

"(d) For the period beginning October 1, 1980, and ending September 30, 1981, the basic pay for educational employees under the

Board of Trustees of the University of the District of Columbia whose basic pay as of September 30, 1980, is \$50,112.50 per annum or above shall not be increased, nor shall the basic rate of pay of an employee whose basic pay is less than \$50,112.50 per annum be paid at a rate in excess of that amount.

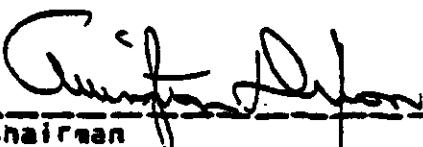
"Sec. 1116. Waiver of Compensation. An individual officer or employee of the District of Columbia government entitled to compensation under this act may decline to accept all or any part of such compensation by a waiver signed and filed with the Director of Personnel. The waiver may be revoked in writing at any time. Payment of the compensation waived may not be made for the period during which the waiver was in effect.".

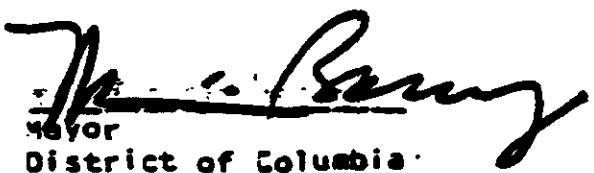
D.C.Code,  
sec. 1-341.16

(h) The table of contents is amended (1) by adding immediately following the section heading "Sec. 1114. Pay setting for firefighters, police officers, and teachers for the fiscal year ending September 30, 1979, and September 30, 1980" the section headings: "Sec. 1115. Pay Limitations for Fiscal Year 1981" and "Sec. 1116. Waiver of Compensation and (2) by redesignating "Sec. 1113"

as "Sec. 1717" and placing it in the appropriate location in the Table of Contents.

Sec. 3. This act shall take effect after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia

APPROVED: January 7, 1981

## COUNCIL OF THE DISTRICT OF COLUMBIA

~~FORM OF OFFICIAL COUNCIL ACTION~~DOCKET NO: B 3-377ACTION: Adopted First Reading, Consent Calendar 11-25-80 VOICE VOTE: UnanimousAbsent: All present ROLL CALL VOTE:

COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME
DIXON		KANE				SHACKLETON		
GUTTER		MASON				SPALDING		
CLARKE		MOORE				MITTISON		
HARDY		RAY						
ROBERTS		ROTBLICK						

CERTIFICATION OF RECORD

  
John Abeyard  
Secretary to the CouncilACTION: Adopted Final Reading, Consent Calendar 12-9-80 VOICE VOTE: UnanimousAbsent: Clarke ROLL CALL VOTE:

COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME
DIXON		KANE				SHACKLETON		
GUTTER		MASON				SPALDING		
CLARKE		MOORE				MITTISON		
HARDY		RAY						
ROBERTS		ROTBLICK						

CERTIFICATION OF RECORD

  
John Abeyard  
Secretary to the Council

ACTION: \_\_\_\_\_

 VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

 ROLL CALL VOTE:

COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME	COUNCIL MEMBER	TYPE	NAME
DIXON		KANE				SHACKLETON		
GUTTER		MASON				SPALDING		
CLARKE		MOORE				MITTISON		
HARDY		RAY						
ROBERTS		ROTBLICK						

CERTIFICATION OF RECORD

Secretary to the Council

COUNCIL OF THE DISTRICT OF COLUMBIA

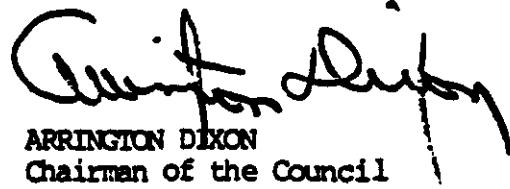
NOTICE

D.C. LAW 4-30

"District of Columbia Government Comprehensive Merit Personnel Act Performance Rating Plan Amendments of 1981".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-236 on first and second readings, May 19, 1981 and June 2, 1981, respectively. Following the signature of the Mayor on June 19, 1981, this legislation was assigned Act No. 4-52, published in the July 10, 1981 edition of the D.C. Register, (Vol. 28 page 3118) and transmitted to Congress on June 24, 1981 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-30, effective September 18, 1981.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June 24, 25, 26

July 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31

August 3, 4

September 9, 10, 11, 14, 15, 16, 17

D.C. LAW 4-30

EFFECTIVE DATE SEP 16 1981

AN ACT

D.C. ACT 4-52

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 19 1981

To amend title XIV of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to permit the continuation of the existing performance rating plan.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.

That this act may be cited as the "District of Columbia Government Comprehensive Merit Personnel Act Performance Rating Plan Amendments of 1981".

Sec. 2. Section 1401 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-344.1) is amended by adding the following new sentence at the end thereof to read as follows:

"Notwithstanding the foregoing or section 1405, until such time as a new performance rating plan is established as required by this title, the performance

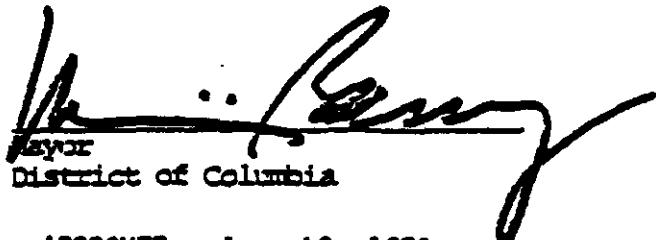
CODIFICATION  
D.C. Code,  
sec. 1-344.1  
(1973 ed.)

-2-

rating plan in effect on December 31, 1979, shall continue in effect, and any performance ratings given under such plan prior to the effective date of this amendment shall be valid for all purposes.".

Sec. 3. This act shall take effect after a thirty (30)-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1)).

  
Chairman  
Council of the District of Columbia

  
Mayor  
District of Columbia

APPROVED: June 19, 1981



## COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Four

First Session

DOCKET NO: Bill 4-236

 Item on Consent Calendar

ACTION: Adopted First Reading, 5-19-81

 VOICE VOTE: Unanimous

Absent: Kane, JMoore

 ROLL CALL VOTE:

COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.		
CENN. DICKIN			KANE			SPACKLETON		
WINTER			MASON			SPALDING		
CLARKE			MOORE, JR.			WILSON		
CRAWFORD			RAY					
JARVIS			SOLARK					

X - Indicates Vote A.B. - Absent N.V. - Not Voting

## CERTIFICATION OF RECORD

 June 9, 1981

Date

Secretary to the Council

 Item on Consent Calendar

ACTION: Adopted Final Reading, 6-2-81

 VOICE VOTE: Unanimous

Absent: Jarvis

 ROLL CALL VOTE:

COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.		
CENN. DICKIN			KANE			SPACKLETON		
WINTER			MASON			SPALDING		
CLARKE			MOORE, JR.			WILSON		
CRAWFORD			RAY					
JARVIS			SOLARK					

X - Indicates Vote A.B. - Absent N.V. - Not Voting

## CERTIFICATION OF RECORD

 June 9, 1981

Date

Secretary to the Council

 Item on Consent Calendar

ACTION:

 VOICE VOTE:

Absent:

 ROLL CALL VOTE:

COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.			COUNCIL MEMBER AYE IN N.V./A.B.		
CENN. DICKIN			KANE			SPACKLETON		
WINTER			MASON			SPALDING		
CLARKE			MOORE, JR.			WILSON		
CRAWFORD			RAY					
JARVIS			SOLARK					

X - Indicates Vote A.B. - Absent N.V. - Not Voting

## CERTIFICATION OF RECORD