

AN ACT

Bill 19-1066

**Emergency
Declaration
Res. 19-718
20 DCStat 548**

To amend, on an emergency basis, An Act For the retirement of public-school teachers in the District of Columbia to comply with applicable tax qualification provisions of the Internal Revenue Code for governmental retirement plans.

**Codification
District of
Columbia
Official Code
2001 Edition**

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Retirement of Public-School Teachers Omnibus Emergency Amendment Act of 2012”.

**Retirement of
Public-School
Teachers
Omnibus
Emergency
Amendment
Act of 2012**

Sec. 2. An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.01 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 38-2021.01) is amended as follows:

**Note,
§ 38-2021.01**

(1) The heading of the section is amended by striking the phrase “; purchase of annuity”.

(2) Subsection (b) is repealed.

(3) A new subsection (c) is added to read as follows:

“(c) Amounts deducted and withheld from the annual salary of each teacher shall be:

“(1) Picked up by the public schools of the District of Columbia, as described in section 414(h)(2) of the Internal Revenue Code;

“(2) Deducted and withheld from the annual salary of the teachers as salary reduction contributions;

“(3) Paid by the public schools of the District of Columbia to the Custodian of Retirement Funds, as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)); and

“(4) Made a part of the teacher’s annuity benefit.”.

(4) New subsections (d) and (e) are added to read as follows:

“(d) Notwithstanding any provisions of this act to the contrary, the amounts contributed under this section shall be fully (100%) vested.

“(e) Notwithstanding anything contained herein to the contrary, upon the employer's request, a contribution that was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect earnings or gains. Notwithstanding

anything contained herein to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and limited by the provisions of this subsection.”.

(b) Section 3 (D.C. Official Code § 38-2021.03), is amended by adding a new subsection (c) to read as follows:

Note,
§ 38-2021.03

“(c) A teacher who completes 5 years of eligible service shall be 100% vested.”.

(c) Section 4(d) (D.C. Official Code § 38-2021.04(d)) is amended to read as follows:

Note,
§ 38-2021.04

“(d) In cases where the annuity is discontinued under the provisions of this section, as much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against the teacher's individual account and, unless the teacher shall become reemployed in a position covered under the Teachers’ Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*) , the teacher shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits set forth in section 9.”.

(d) Section 5 (D.C. Official Code § 38-2021.05) is amended by adding a new subsection (f) to read as follows:

Note,
§ 38-2021.05

“(f) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost of living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act.”.

(e) A new section 7a is added to read as follows:

Note, New
§ 38-2021.07a

"Sec. 7a. Required minimum distributions.

“Distributions shall begin no later than the teacher’s required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of this act; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this act. The provisions of this section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan, and if any special rules for governmental plans are not set forth in this section, these special rules are incorporated by reference and shall for all purposes be deemed a part of this act.

"(a) Time and Manner of Distribution.

"(1) The teacher's entire interest shall be distributed, or begin to be distributed, to the teacher no later than April 1 following the later of the calendar year in which the teacher attains age 70 ½ or the calendar year in which the teacher retires or terminates employment (the “required beginning date”).

"(2) If the teacher dies before distributions begin, the teacher's entire interest shall be distributed, or shall begin to be distributed, no later than as follows:

"(A) If the teacher's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died, or by December 31 of the calendar year in which the teacher would have attained age 70½, if later;

"(B) If the teacher's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died;

"(C) If there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, the teacher's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the teacher's death;

"(D) If the teacher's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the teacher but before distributions to the surviving spouse begin, subsection (a)(2)(A) of this section shall not apply, and subsections (a)(2)(B) and (C) of this section shall apply as if the surviving spouse were the teacher. For purposes of subsections (a)(2) and (c) of this section, distributions are considered to begin on the teacher's required beginning date or, if subsection (a)(2)(D) of this section applies, the date distributions to the surviving spouse are required to begin under subsection (a)(2)(A) of this section. If annuity payments to the teacher irrevocably commence before the teacher's required beginning date or to the teacher's surviving spouse before the date distributions to the surviving spouse are required to begin under subsection (a)(2)(A) of this section, the date distributions are considered to begin is the date distributions actually commence.

"(3) Unless the teacher's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions shall be made in accordance with subsections (b) and (c) of this section. If the teacher's interest is distributed in the form of an annuity purchased from an insurance company, distributions under the annuity shall be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. A part of the teacher's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

"(b) The amount of the annuity is to be determined each year.

"(1) If the teacher's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

"(A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

"(B) Payments shall either be non-increasing or increase only as follows:

"(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and

issued by the Bureau of Labor Statistics;

"(ii) To provide cash refunds of employee contributions upon the teacher's death;

"(iii) Pay increased benefits that result from an amendment to this act, An Act To increase annuities payable to certain annuitants from the District of Columbia teachers retirement and annuity fund, and for other purposes, approved September 2, 1958 (72 Stat. 1768; D.C. Official Code § 38-2023.01, *et seq.*), An Act To amend the Act for the retirement of public-school teachers in the District of Columbia, approved March 6, 1952 (66 Stat. 22; D.C. Official Code § 38-2023.11); An Act To amend the District of Columbia Teachers' Salary Act of 1955, as amended, and to provide for the adjustment of annuities paid from the District of Columbia teachers' retirement and annuity fund, approved October 24, 1962 (76 Stat. 1229; D.C. Official Code § 38-2023.12), the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 38-2023.13, 38-2023.14), An Act To amend section 5 of the Act of August 7, 1946, entitled "An Act for the retirement of public school teachers in the District of Columbia", as amended, approved July 2, 1956 (70 Stat. 487; D.C. Official Code § 38-2023.15), and An Act To authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts, approved April 26, 1972 (86 Stat. 131; D.C. Official Code § 38-2023.16) (collectively "the associated acts").

"(2) The amount that must be distributed on or before the teacher's required beginning date or, if the teacher dies before distributions begin, the date distributions are required to begin under subsections (a)(2)(A) or (B) of this section, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (e.g., bi-monthly, monthly, semi-annually, or annually). The teacher's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the teacher's required beginning date.

"(3) Additional benefits accruing to the teacher in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which the amount accrues.

"(c) Amounts payable if a teacher dies before distribution begins are subject to the following requirements:

"(1) If the teacher dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the teacher's entire interest shall be distributed, beginning no later than the time described in subsections (a)(2)(A) or (B) of this section, over the life of the designated beneficiary not exceeding either of the following:

"(A) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the

calendar year of the teacher's death; or

"(B) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence;

"(2) If the teacher dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, distribution of the teacher's entire interest shall be completed by December 31 of the calendar year containing the 5th anniversary of the teacher's death; or

"(3) If the teacher dies before the date distribution of the teacher's interest begins, The teacher's surviving spouse is the teacher's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, subsection (c) of this section shall apply as if the surviving spouse were the teacher, except that the time by which distributions must begin shall be determined without regard to subsection (a)(2)(A) of this section."

(f) Section 8(a) (D.C. Official Code § 38-2021.08(a)) is amended to read as follows:

Note,
§ 38-2021.08

"(a) The years of service which form the basis for determining the amount of the annuity provided in section 5(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay as does not exceed 6 months in the aggregate in a fiscal year, plus service credit that may be allowed under the provisions of this section. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of 5 U.S.C. Chapter 81, or any earlier statute on which the subchapter is based. In computing an annuity under section 5(a), the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for:

"(1) Public school service or its equivalent outside the District of Columbia but not to exceed 10 years;

"(2) Continuous temporary service in the public schools of the District immediately prior to probationary appointment;

"(3) Service in the District government or the government of the United States allowable under subchapter III of 5 U.S.C. § 83;

"(4) Periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) before the date of the separation upon which title to annuity is based; provided that, if a teacher is awarded retired pay on account of military service, the teacher's military service shall not be included unless the retired pay is awarded on account of a service-connected disability:

"(A) Incurred in combat with an enemy of the United States; or

"(B) Caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under 10 U.S.C. § 12736;

"(5) Educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201 to 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code § 1-612.01 to 1-612.03); and

"(6) Continuous temporary service as an employee of a cafeteria or lunchroom operated in the public school buildings of the District of Columbia during a period before the date on which the cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately before appointment as a teacher in the public schools of the District of Columbia; provided, that portion of the annuity which results from credit for service allowable under paragraphs (1) and (3) of this subsection shall be reduced by the amount of any annuity that the retired teacher is entitled to receive under a federal, state, or municipal retirement or pension system with respect to the service, except that that portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit that the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03), shall be given to a teacher until the teacher shall have deposited to the credit of the District of Columbia Teachers' Retirement Fund a sum equal to:

"(A) The accumulated contributions that the teacher would have had credited to the teacher's individual account if the service had been rendered on active duty in the public schools of the District of Columbia, the contributions to be based on the average annual salary of the class to which the teacher is appointed; and

"(B) Interest thereon computed in accordance with section 253(a)(6)(b) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C. Official Code § 38-2023.14(b)); provided further, that contributions to the retirement fund made by a teacher on education leave with part pay shall be determined in accordance with the provisions of section 1, but otherwise no provision of this act shall be interpreted to deprive a teacher employed by the Board of Education of any rights or benefits allowable under sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03). If the teacher so elects, the teacher may deposit the required sum in the District of Columbia Teachers' Retirement Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will

be provided in accordance with section 414(u) of the Internal Revenue Code. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year.”.

(g) Section 9 (D.C. Official Code § 38-2021.09), is amended as follows:

Note,
§ 38-2021.09

(1) Subsection (a) is amended to read as follows:

“(a) Should a teacher to whom this act applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, the teacher may elect to receive a deferred annuity, computed as provided in section 5, beginning at the age of 62 years and terminating on the date of the teacher's death; provided, that a teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits; provided further, that no teacher who shall withdraw the amount of the teacher's deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless the teacher shall repay to the Custodian of Retirement Funds as defined in section 102(6) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)), for deposit in the District of Columbia Teachers' Retirement Fund, established by section 123(a) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C Official Code § 1-713(a)), the amount withdrawn by him (including the interest thereon) plus interest computed in accordance with section 253(a)(6)(c) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C. Official Code § 38-2023.14(c)); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100.”.

(2) A new subsection (b)(4) is added to read as follows:

“(b)(4) In the event that a teacher to whom this act applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the teacher shall be entitled to receive any additional benefits provided under this act (other than benefit accruals relating to the period of qualified military service) as if the teacher resumed employment and then terminated employment on account of death.”.

(3) A new subsection (c)(8) is added to read as follows:

“(c)(8) The term “qualified military service” shall mean any military service in the uniformed services, as defined in 38 U.S.C. § 43, by a teacher, if the teacher is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code.”.

(4) A new subsection (d) is added to read as follows:

“(d) Effective as of January 1, 2007, benefits payable under this act shall not be paid until at least 30 days, or a shorter period as may be permitted by law, but no more than 180 days after a teacher's receipt of required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code. The notices must include a description of the teacher's right, if any, to defer receipt of a distribution, the consequences of failing to defer

receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.”.

(h) Section 14 (D.C. Official Code § 38-2021.14) is repealed.

Note, Repeal
§ 38-2021.14
Note, New
§ 38-2021.15a

(i) A new section 15a (D.C. Official Code § 38-2021.15a) is added to read as follows:

“Sec. 15a. Disposition of forfeitures.

“Forfeitures in the Teacher's Retirement Fund shall not be applied to increase the annuity of a person hereunder, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's contributions.”.

(j) Section 17 (D.C. Official Code § 38-2021.17), is amended to read as follows:

Note,
§ 38-2021.17

“Sec. 17. Except as provided in the District of Columbia Spouse Equity Act of 1988, effective March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01 *et seq.*), none of the money mentioned in this act (including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-713(a)), shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process, except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the District of Columbia Retirement Board.”.

(k) Section 18 (D.C. Official Code § 38-2021.18), is amended to read as follows:

Note,
§ 38-2021.18

“Sec. 18. Applicability.

The provisions of this act and the associated acts shall constitute a defined benefit plan and a governmental plan, as described in section 414(d) of the Internal Revenue Code, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 19, 1977 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901 *et seq.*), the provisions of this act shall apply to and control the provision of any annuity payable. The provisions of this act shall apply to all teachers on the rolls of the public schools of the District who accrue service after June 30, 1997, under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if otherwise eligible.”.

(l) Section 24 (D.C. Official Code § 38-2021.24), is amended to read as follows:

Note,
§ 38-2021.24

“Sec. 24. Rollovers; purchase of service credit.

“(a) An individual withdrawing a distribution under this act that constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution

paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code of 1986, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code. Any nontaxable distribution or portion thereof from a qualified plan may be directly rolled over tax-free to another qualified plan or a plan or annuity contract described in section 403(b) of the Internal Revenue Code, if separate accounting and other requirements are met pursuant to section 402(c)(2)(A) of the Internal Revenue Code.

"(b) For the purposes of this act, the following definitions apply:

"(1) An "eligible rollover distribution" within the meaning of section 402(c) of the Internal Revenue Code is a distribution of all or a portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

"(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

"(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan described in sections 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Internal Revenue Code if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

"(2) An "eligible retirement plan" means:

"(A) An individual retirement account described in section 408(a) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(C) A qualified trust described in section 401(a) of the Internal Revenue Code or an annuity plan described in section 403(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution;

"(D) An annuity contract described in section 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution; and

"(E) An eligible plan described in section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, that accepts the distributee's eligible

rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this act. The foregoing definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

"(3) A "distributee" means a teacher or former teacher. In addition, the teacher' or former teacher's surviving spouse is a distributee with regard to the interest of the spouse or former spouse.

"(4) A "direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code.

"(c) A nonspouse beneficiary of a deceased teacher is also a distributee for purposes of this section; provided, that, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code. The determination of the extent to which a distribution to a nonspouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

"(d) The Custodian of the Retirement Funds shall be entrusted with a transfer from another retirement plan for the purchase of service credit, including transfers allowed by sections 403(b) and 457 of the Internal Revenue Code of 1986. Before a transfer is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed transfers for the purchase of service credit.

"(e)(1) The Custodian of the Retirement Funds shall also be entrusted with any rollover contribution from an eligible retirement plan, including:

"(A) A qualified plan described in sections 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

"(B) An annuity contract described in section 403(b) or the Internal Revenue Code of 1986, excluding after-tax employee contributions;

"(C) An eligible plan under section 457(b) of the Internal Revenue Code of 1986, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state; or

"(D) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.

"(2) The rollover shall be separately accounted for as member contributions that were not previously taxed. Before a rollover is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986, governing the substantiation of proposed rollover contributions. The rollover shall be used to purchase service credit in addition to the service credit provided under the provisions of this act.

"(f) The District of Columbia Retirement Board shall administer this act and the associated acts in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements. The District of Columbia Retirement Board may adopt rules to implement this section."

(m) Section 25 (D.C. Official Code § 38-2021.25), is amended to read as follows:

Note,
§ 38-2021.25

"Sec. 25. (a) Benefits and contributions under the provisions of this act shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code of 1986, as adjusted for increases in the cost-of-living.

"(b) Notwithstanding the foregoing provisions of this act and the associated acts to the contrary, benefits under this act and the associated acts are subject to the limitations imposed by section 415 of the Internal Revenue Code of 1986, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

"(1) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any teacher may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to section 21 (hereafter referred to as the "maximum benefit"), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to this subsection, the maximum annual additions for any limitation year shall be equal to the lesser of:

"(A) The dollar limit on annual additions; or

"(B) 100% of the teacher's remuneration. The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in such manner as the Secretary of the Treasury shall prescribe. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a teacher's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a teacher who has reached his or her termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

"(2) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

"(A) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

"(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the

manner described in sub-subparagraphs (ii) or (iii) of this paragraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or in the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code.

"(ii) If the benefit of a teacher is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this subsection) is equal to the greater of the annual amount of the straight life annuity (if any) payable to the teacher commencing at the same time, or the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code.

"(iii) If the benefit of a teacher is paid in a form subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of:

"(I) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the teacher's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the definition of actuarial equivalent for adjusting benefits in the same form;

"(II) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the teacher's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code; or

"(III) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

"(iv) For the purposes of subparagraph (A) of this paragraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this act and the associated act as a government plan as described in section 414(d) of the Internal Revenue Code.

"(B) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

"(i) If the benefit of a teacher begins before age 62, the defined benefit dollar limit applicable to the teacher at such earlier age is an annual benefit payable in the

form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the teacher at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

"(II) The defined benefit dollar limit, adjusted for participation of fewer than 10 years if applicable, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this act at age 62, both determined without applying the limitations of this section. The adjustment in sub-subparagraph (i) of this subparagraph shall not apply as a result of benefits paid on account of disability under section 4 or as a result of the death of a teacher under section 9.

"(ii) If the benefit of a teacher begins after age 65, the defined benefit dollar limit applicable to the teacher at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

"(II) The defined benefit dollar limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this act at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this act at the age the benefit commences is the annual amount of the annuity payable to the teacher, computed disregarding the teacher's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this act at age 65 is the annual amount of such annuity that would be payable under this act to a hypothetical teacher who is age 65 and has the same annuity as the teacher.

"(iii) For the purposes of subsection (b)(2)(B) of this section, no

adjustment shall be made to the defined benefit dollar limit to reflect the probability of a teacher's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the teacher prior to the annuity having a commencing date. To the extent benefits are forfeited upon death before the date the benefits first commence, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the teacher's death if the benefit provided under this act does not charge the teacher for providing a qualified preretirement survivor annuity (as defined for purposes of section 415 of the Internal Revenue Code) upon the teacher's death.

"(3) If the teacher has fewer than 10 years of participation in the defined benefit portion of this act (as determined under section 415 of the Internal Revenue Code and associated regulations), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this act and the denominator of which is 10. The adjustment in subsection (b)(3) of this section shall not apply to benefits paid on account of disability under section 4(d) or as a result of the death of a teacher under section 9. In the case of years of credited service credited to a teacher pursuant to section 8:

"(A) The limitation contained in subsections (c)(1)(A) and (b)(3) of this section shall not apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code or from an individual retirement account; or

"(ii) A direct payment.

"(B) The limitation contained in subsections (b)(1)(A) and (b)(3) of this section shall apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are not actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

"(ii) A direct payment.

"(C) The determination of the extent to which additional years of credited service under section 8 have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code, the teacher's account under an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code), or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as

if it were a mandatory employee contribution.

"(4) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, with respect to any teacher who is also a participant in:

"(A) Any other tax-qualified retirement plan maintained by the District of Columbia, including a defined benefit plan in which an individual medical benefit account, as described in section 415(l) of the Internal Revenue Code, has been established for the teacher;

"(B) A welfare plan maintained by the District of Columbia in which a separate account, as described in section 419A(d) of the Internal Revenue Code, has been established to provide post-retirement medical benefits for the teacher; or

"(C) A retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

"(5) If a teacher has distributions commencing at more than one date determined in accordance with section 415 of the Internal Revenue Code and associated regulations, the annuity payable having the commencement date shall satisfy the limitations of subsection (b) of this section as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

"(6) The application of the provisions of subsection (b) of this section shall not cause the maximum permissible benefit for a teacher to be less than the teacher's annuity under this act as of the end of the last limitation year beginning before July 1, 2007 under provisions of this act that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code as in effect as of the end of the last limitation year beginning before July 1, 2007.

"(7) To the extent that a teacher's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this act, these provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this act.

"(8) As used in this section, the term:

"(A) "Annual additions" means the sum of the following items credited to the teacher under this act and any other tax-qualified retirement plan sponsored by the District of Columbia for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code; District of Columbia contributions that are separately allocated to the teacher's credit in any defined contribution plan; forfeitures; teacher contributions (other than contributions that are picked up by the District of Columbia as described in section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a teacher's individual medical account (within the meaning of section 415(l) of the Internal Revenue Code).

"(B) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code. The defined benefit dollar limit as set forth above is the monthly

amount payable in the form of a straight life annuity, beginning no earlier than age 62, except as provided in subsection (b)(2)(B)(i) of this section and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in subsection (b)(2) of this section shall apply.

"(C) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code.

"(D) "Remuneration" means a teacher's wages as defined in section 3401(a) of the Internal Revenue Code and all other payments of salary to the teacher from the public schools of the District of Columbia for which the public schools of the District of Columbia is required to furnish the teacher a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code. For this purpose:

"(i) Remuneration shall be determined without regard to rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

"(ii) Remuneration does not include mandatory employee contributions picked up by the public schools of the District of Columbia pursuant to section 1.

"(iii) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in section 457(b), 132(f) or 125 of the Internal Revenue Code.

"(iv) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time by the Secretary of the Treasury. The cost of living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year.

"(c) Notwithstanding any other provision to the contrary, all death benefits paid pursuant to section 25(d) shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations, as more fully set forth in section 7."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

COUNCIL OF THE DISTRICT OF COLUMBIA

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D.C. Act 19-584, effective January 1, 2013 (Expiration date April 1, 2013)

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).