

# ENROLLMENT(S)



(5)



# COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

### D.C. LAW 12-124

#### "Omnibus Personnel Reform Amendment Act of 1998".

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. 12-44, on first and second readings, February 3, 1998 and March 17, 1998, respectively. Following the signature of the Mayor on April 1, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-326 and published in the April 24, 1998, edition of the D.C. Register (Vol. 45 page 2464) and transmitted to Congress on April 21, 1998 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 12-124, effective June 10, 1998.



LINDA W. CROPP  
Chairman of the Council

#### Dates Counted During the 30-day Congressional Review Period:

Apr. 21,22,23,24,27,28,29,30

May 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22

June 1,2,3,4,5,9

**RE-ENROLLED ORIGINAL**

**AN ACT**  
**D.C. ACT 12-326**

*Codification  
District of  
Columbia  
Code  
1998 Supp.*

**IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**

**APRIL 1, 1998**

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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to modify the definition of "grievance" to exclude certain adverse actions, to exclude the Department of Public and Assisted Housing, the Commission on Public Health, Commission for Women, Office of Policy, Office of Program Evaluation, Office of Housing Reorganization, Commission on Asian and Pacific Islander Affairs, Office of Communications, the Office of Documents, and the Office of International Business from the list of subordinate agencies and add the Commission on the Arts and Humanities, Department of Health, Office of Contracting and Procurement, the Commission on Health Care Finance, and the Department of Insurance and Securities Regulation as subordinate agencies, to change the name of the Department of Human Services to the Department of Human Development in the list of subordinate agencies, to add the Budget Director to the Council to the list of statutory officeholders, to subject all rulemaking, including those pertaining to health, life insurance, and retirement benefits to a 30-day review period rather than the current 60-day period, to limit employee appeals to the Office of Employee Appeals to disciplinary actions and RIFs, or certain disciplinary actions that result in removals, reductions in grades, and suspensions of 10 days or more within 30 days of an disciplinary action and to require employees covered by a negotiated grievance procedure to elect remedies between that procedure and OEA, to limit agency hearing procedures to removals and to provide for enforced leave without pay in instances involving fraud or criminal charges, to allow the Office of Employee Appeals to develop a mediation program, to allow time-limited appointments to positions below DS-13 in the Career Service to be noncompetitive, include District residency as a criterion for consideration in reduction-in-force proceedings in the Career and Educational Services, to allow qualified retreat rights from the Excepted Service to the Career, Management Supervisory, and Educational Services, and prohibit appointment in those services for certain employees leaving the Excepted Service in the 6-month period preceding a Mayoral election, to establish an alternative pay system,

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allow performance incentives, provide for separation pay, and allow reimbursement for certain employment costs to Excepted Service employees, to allow the Director of Personnel to waive the residency requirement for hard-to-fill Excepted Service positions, to establish the Management Supervisory Service to be composed of employees whose functions include responsibility for project management and supervision of staff and the achievement of the project's overall goals and objectives, to re-establish the Executive Service with pay enhancements, travel allowances, and income performance incentives, to provide the Mayor with the authority to establish pilot personnel programs in the areas of classification and compensation in the Department of Employment Services, the Department of Recreation and Parks, and the Office of Personnel, to require the Mayor to include compressed work schedules in the work hours regulations, to make certain enhancements to the annual leave bank program, to require the Mayor develop a universal leave system for certain full-time and part-time employees hired after September 30, 1987, to eliminate the performance evaluation system and establish a comprehensive performance management system including a requirement linking performance to step increases, to re-establish the adverse action and grievance provisions of the act with the intent of installing more positive approaches toward employee discipline, to permit tangible incentive awards a monetary value of no more than \$50 and time off without loss of pay or charge to leave and permit cash awards to \$5,000 or 10% of the employee's schedule rate of basic pay, whichever is greater, to grant the Mayor authority to initiate pilot incentive awards programs including gainsharing, to require the Mayor and each personnel authority to establish a program to comply with federal regulations concerning employees who are drivers of commercial motor vehicles, to authorize the Mayor to establish a disability income program for non-job-related injuries and illnesses, to re-establish the reduction-in-force provisions to include attorneys appointed to the Excepted Service, provide for 1 round of lateral competition limited to positions within the employee's competitive level, provide employees who are residents of the District with 3 years additional creditable service for RIF purposes, reduce the 30-day notice requirement before a RIF can be instituted to 15 days notice, and establish 26 weeks pay as the maximum amount of severance pay, eliminate the provision allowing RIF policies and procedures to be appropriate matters for collective bargaining, to remove the Office of Employee Appeals from the process of adjudicating requests for waivers of government claims for erroneous payment to an employee and to eliminate an employee's right to appeal a decision by the Mayor or an agency head concerning privacy of personnel records and employee's access to his or her personnel records, and to repeal the annual reporting requirement on the personnel system; and to amend the District of Columbia Police and Firemen's Salary Act of 1958 to allow the Council, by resolution, to suspend all provisions of the act, related to

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District employees, except provisions concerning the Council's authority to promulgate regulations, retroactive pay, and the Mayor's and certain federal agency head's authority to delegate their authority.

**BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,** That this act may be cited as the "Omnibus Personnel Reform Amendment Act of 1998".

**TITLE I. - Personnel Reform.**

Sec. 101. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

(a) Section 301 (D.C. Code § 1-603.1) is amended as follows:

Section  
1-603.1

(1) Subsection (j) (D.C. Code § 1-603.1(10)) is amended by inserting after the phrase "welfare of employees" the phrase ", but does not include adverse actions resulting in removals, suspension of 10 days or more, or reductions in grade, reductions in force, or classification matters. This definition applies to matters which are subject to procedures established pursuant to section 1603 and is not intended to restrict matters that may be subject to a negotiated grievance and arbitration procedure in a collective bargaining agreement between the District and a labor organization representing employees.".

(2) Subsection (q) (D.C. Code § 1-603.1(17)) is amended as follows:

Section  
1-603.1

(A) Paragraph (8) is amended by inserting the phrase "and Emergency Medical Services" after the word "Fire".

(B) Paragraphs (11), (14)(B), (24), (28), (29), (31), (32), (33), (35) and (37) are repealed.

(C) Paragraph (13) is amended by inserting the phrase "and Parks" after the word "Recreation".

(D) Paragraph (14) is amended by striking the word "Services" and inserting the word "Development" in its place.

(E) Paragraph (36) is amended by striking the word "and" at the end of the paragraph.

(F) Paragraph (37) is amended by striking the period at the end of paragraph (37) and inserting a semicolon in its place.

(G) New paragraphs (38), (39), (40), (41), and (42) are added to read as follows:

"(38) Commission on the Arts and Humanities;  
"(39) Department of Health;

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"(40) Office of Contracting and Procurement;  
"(41) The Commission on Health Care Finance; and  
"(42) Department of Insurance and Securities Regulation.".

(b) Section 405 (D.C. Code § 1-604.5) is amended to read as follows:

"Rules and regulations proposed or issued pursuant to section 404, and amendments, shall be issued according to the provisions of section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code § 1-1506).".

Section  
1-604.5

(c) Section 406(b)(3) (D.C. Code § 1-604.6(b)(3)) is amended by striking the phrase "Secretary and General Counsel to the Council" and inserting the phrase "Secretary, General Counsel, and Budget Director to the Council" in its place.

Section  
1-604.6

(d) Title VI (D.C. Code § 1-606.1 *et seq.*) is amended as follows:

(1) Section 603(a) (D.C. Code § 1-606.3(a)) is amended to read as follows:

"(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to title XIII-A), an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more (pursuant to title XVI-A), or a reduction-in-force (pursuant to title XXIV) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed agency action.".

Note, Section  
1-606.3

(2) Section 604(a) through (e) (D.C. Code § 1-606.4(a) through (e)) is amended to read as follows:

Note, Section  
1-606.4

"(a) The personnel authority shall establish internal rules and regulations, not inconsistent with the procedures of this title, for conducting hearings affecting individual employees whose removal is proposed or effected for cause pursuant to title XVI.

"(b) The personnel authority shall provide for 15 days advance notice in writing stating the specific reasons for the proposed action prior to an adverse action against an employee for cause that results in removal, a reduction in grade, or a suspension of 10 days or more. This provision may be waived by the agency head if the employee's conduct threatens the integrity of government operations, constitutes an immediate hazard to the agency, to other employees of the government, or to the employee, or to the public health, safety, or welfare.

"(c) The personnel authority shall provide that any employee whose removal from service, reduction in grade, or suspension of 10 days or more is proposed, or whose removal is effected pursuant to section 1651(5) have the following rights:

"(1) To review any material upon which the proposal or action is based;

"(2) To prepare a written response to the notice provided in subsection (b) of this section, including affidavits and other documentation;

"(3) To be represented by an attorney or other representative; and

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"(4) To be heard, as provided in subsection (d) of this section in the case of a removal.

"(d) The personnel authority shall provide an administrative review by a hearing officer appointed by the agency head of a proposed removal action or a removal action pursuant to section 1651(5) including the employee's response, if any, and may provide for an adversary hearing and the confrontation of witnesses.

"(e) The personnel authority shall provide the employee with a written decision following the review provided in subsection (d) of this section, and shall advise each employee of his or her right to appeal to the Office as provided in this title.".

(3) Section 605 (D.C. Code § 1-606.6) is amended as follows:

Section  
1-606.6

(A) The section heading is amended to read as follows:

**"Mediation and settlement."**

(B) The existing text is designated as subsection (b).

(C) A new subsection (a) is added to read as follows:

"(a) The Office may, in its discretion, develop a mediation program.".

(e) Section 801(a) (D.C. Code § 1-608.1(a)) is amended as follows:

Section  
1-608.1

(1) The first sentence of the lead-in language is amended by striking the phrase "Excepted, Executive or Educational Service" and inserting the phrase "Excepted, Executive, Educational, or Management Supervisory Service" in its place.

(2) Paragraph (6) is amended as follows:

(A) By inserting the phrase ", term," after the word "Temporary"; and

(B) By inserting the phrase ", except that such appointments to positions at the DS-12 level or equivalent or below may be made non-competitively" before the semicolon.

(3) Paragraph (12)(A) is amended by inserting the phrase "District residency," before the word "veterans".

(f) Section 801A(b)(2)(L) (D.C. Code § 1-609.1(b)(2)(L)) is amended in the first phrase by inserting the phrase "District residency," before the word "veterans".

Section  
1-609.1  
Section  
1-610.2

(g) Section 902 (D.C. Code § 1-610.2) is amended by striking the second sentence and inserting in its place a new sentence to read as follows:

"No person holding an Excepted Service appointment pursuant to section 903 or 908 may be appointed to a position in the Career, Management Supervisory, or Educational Service during the 6 month period immediately preceding a Mayoral election. However, upon termination, a person with Career or Educational Service status may retreat, at the discretion of the terminating personnel authority, within 3 months to a vacant position in such service for which he or she is qualified. The provisions of this subsection shall not apply to employees of the Council of the District of Columbia.".

(h) Section 903 (D.C. Code § 1-610.3) is amended by adding new subsections (d), (e), (f), and (g) to read as follows:

Note, Section  
1-610.3

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"(d) At the discretion of the personnel authority, an individual appointed to the Excepted Service at grade level DS-11 or above pursuant to this section:

    "(1) May be paid in accordance with the pay schedule for the Management Supervisory Service as provided in section 956; and

    "(2) May be placed in any step of the appropriate grade of that schedule.

"(e) The personnel authority may authorize performance incentives for exceptional service for individuals appointed pursuant to this section not to exceed 10% of the rate of basic pay in any year. Such exceptional service incentives may be paid only when the Excepted Service employee is bound by a performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is paid.

"(f) An individual appointed to the Excepted Service pursuant to this section or section 908 shall be paid separation pay of up to 12 weeks of his or her basic pay upon separation for non-disciplinary reasons.

"(g) Pursuant to regulations as the Mayor may prescribe, the following expenses may be paid to an individual being interviewed for, or an appointee to, a hard-to-fill Excepted Service position at a DS-11 or above:

    "(1) Reasonable pre-employment travel expenses;

    "(2) Reasonable relocation expenses for the Excepted Service selectee or appointee and his or her immediate family if they relocate to the District of Columbia from outside the Greater Washington Metropolitan Area; and

    "(3) A reasonable temporary housing allowance, for a period not to exceed 60 days, for the Excepted Service selectee or appointee and his or her immediate family.".

(i) Section 906 (D.C. Code § 1-610.6) is amended by adding a new subsection (d) to read as follows:

Section  
1-610.6

    "(d) The Director of Personnel may waive the residency requirement in subsection (a) of this section for any individual appointed to a hard-to-fill position under section 903(a)(1) or (2).".

(j) Section 908 (D.C. Code § 1-610.8) is amended as follows:  
    (a) Subsection (1) is amended by striking the word "and" at the end.  
    (b) Subsection (m) is amended by striking the period and inserting a semicolon its place.

Section  
1-610.8

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

    "(n) Budget Director to the Council"."

(k) A new title IX-A is added to read as follows:

"TITLE IX-A  
"MANAGEMENT SUPERVISORY SERVICE

Note, Section  
1-610.9  
New  
Subchapter  
X-A,  
Chapter 6,  
Title 1

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### **"Sec. 951. Establishment**

"There is established within the District government the Management Supervisory Service to ensure that each agency has the highest quality managers and supervisors who are responsive to the needs of the government. Persons appointed to the Management Supervisory Service are not in the Career, Educational, Excepted, or Executive Service.

Note,  
New Section  
1-610.51

### **"Sec. 952. Composition**

"Each individual (except for employees appointed pursuant to sections 901 through 908 or titles VIII-A or X, employees of the Board of Education, employees of the Board of Trustees of the University of the District of Columbia, and uniformed members of the Metropolitan Police Department or the D.C. Fire and Emergency Medical Services Department) who meets the definition of "management employee" pursuant to section 1411(5) shall be in the Management Supervisory Service.

Note,  
New Section  
1-610.52

### **"Sec. 953. Competitive appointments**

"Appointments by the personnel authority shall be made on the basis of merit from among the highest qualified applicants, based on specific job requirements. Examining procedures shall be designed to achieve the maximum objectivity, reliability, and validity.

Note,  
New Section  
1-610.53

### **"Sec. 954. Employment-at-will**

"(a) An appointment to a position in the Management Supervisory Service shall be an at-will appointment. Management Supervisory Service employees shall be given a 15-day notice prior to termination. Upon termination, a person with Career or Educational Service status, or with Excepted Service status due to appointment as an attorney pursuant to section 909, may retreat, at the discretion of the personnel authority, within 3 months of the effective date of the termination, to a vacant position within the agency to which he or she was promoted for which he or she is qualified.

Note,  
New Section  
1-610.54

"(b) Employees appointed to the Management Supervisory Service shall be given severance pay in accordance with title XI upon separation for non-disciplinary reasons.

### **"Sec. 955. Management Supervisory Service skills maintenance and enhancement**

Note,  
New Section  
1-610.55

"Management Supervisory Service employees shall be required to maintain and enhance their management and supervisory skills.

### **"Sec. 956. Pay for Management Supervisory Service**

Note,  
New Section  
1-610.56

"A pay schedule shall be developed by the Mayor following a classification and compensation study for the Management Supervisory Service.

### **"Sec. 957. Residency preference**

Note,  
New Section  
1-610.57

"The provisions of section 801(e)(1), (2), (3), (5), (6), and (7) shall apply to employment in the Management Supervisory Service.

### **"Sec. 958. Transition provisions**

Note,  
New Section  
1-610.58

"Persons currently holding appointments to positions in the Career Service who meet the definition of "management employee" as defined in section 1411(5) shall be appointed to the

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Management Supervisory Service unless the employee declines the appointment. Persons declining appointment shall have priority for appointment to the Career Service if a vacant position for which they qualify is available within the agency and is acceptable to the employee. If no such vacant position is available, a 30-day separation notice shall be issued to the employee."

- (l) Title X (D.C. Code § 1-611.1) is repealed.
- (m) A new Title X-A is added to read as follows:

"TITLE X-A  
"EXECUTIVE SERVICE

"Sec. 1051. Policy

"(a) An Executive Service is established to ensure that the executive management of the District of Columbia government is responsive to the needs of the citizens and the goals of the government. Persons serving in the Executive Service shall assist the Mayor in advancing program responsibilities of the District government.

"(b) The Mayor shall nominate persons to serve as subordinate agency heads in the Executive Service pursuant to the provisions of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Code § 1-633.7). Individuals appointed to the Executive Service, other than the Chief Procurement Officer, shall serve at the pleasure of the Mayor.

"(c) The compensation and benefits system for the Executive Service is designed to attract and retain the highest caliber public administrators, who shall be accountable for the effective and efficient management of subordinate agencies.

"Sec. 1052. Executive Service pay schedule

"(a) The Executive Schedule ("DX Schedule"), shall be divided into five pay levels and shall be the basic pay schedule for subordinate agency head positions.

"(b) The Mayor shall designate the appropriate level for each subordinate agency head position.

"(c) Each level shall have a minimum and maximum salary range established by the Mayor, subject to Council review and approval by resolution. Initial salary ranges shall be submitted by the Mayor to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 60-day period, the proposed salary ranges shall be deemed approved.

"(d) Any subsequent changes to the salary ranges established pursuant to subsection (c) of this section shall be submitted by the Mayor to the Council for a 15-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 15-day period, the proposed salary ranges shall be deemed approved.

Note, Section  
1-611.1  
Note, Section  
1-611.2  
New  
Subsection  
XI-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-611.51

Note,  
New Section  
1-611.52

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"(e) Initial salary ranges and any subsequent changes to the salary ranges shall become effective upon approval and shall be published in the *District of Columbia Register* for notice purposes within 45 days of their approval.

"Sec. 1053. Executive Service pay plan

Note,  
New Section  
1-611.53

"(a) A person appointed to a position in the Executive Service shall be appointed at the level on the DX Schedule designated for the subordinate agency to which he or she is appointed, and shall receive a salary set at any amount within the salary range for that level that the Mayor determines to be appropriate.

"(b) The salary of any person holding an appointment to a position in the Executive Service may, at any time, be increased or decreased by the Mayor, at his or her sole discretion, to any other salary within the salary range for the level occupied.

"(c) The salary of an employee in the Executive Service who is temporarily assigned to a position at a higher or lower level on the DX Schedule shall be set, at the discretion of the Mayor, at any rate within the salary range of the level to which the employee is temporarily assigned or the salary range of the level of the position from which officially appointed.

"(d) A person paid from the DX Schedule shall not be entitled to premium pay.

"Sec. 1054. Incumbents

Note,  
New Section  
1-611.54

"A person holding an appointment to a position in the Executive Service on the effective date provided for the enactment of congressional legislation in section 401(a) of the Omnibus Personnel Reform Amendment Act of 1998 shall continue to be paid at his or her existing rate of pay until the Mayor effects a personnel action establishing a new salary within the designated range for the level of the position to which the person is appointed.

"Sec. 1055. Reasonable pre-employment travel and relocation expenses and temporary housing allowance

Note,  
New Section  
1-611.55

"Pursuant to regulations the Mayor may prescribe, the following expenses may be paid in connection with Executive Service employment:

"(1) Reasonable pre-employment travel expenses for an individual being interviewed for a subordinate agency head position;

"(2) Reasonable relocation expenses for an Executive Service selectee or appointee and his or her immediate family if they are relocating to the District of Columbia from outside the Greater Washington Metropolitan Area; and

"(3) A reasonable temporary housing allowance, for a period not to exceed 60 days, for an Executive Service selectee or appointee and his or her immediate family.

"Sec. 1056. Additional income allowance

Note,  
New Section  
1-611.56

"An additional income allowance of up to 15% of the maximum rate of pay for the level held may be paid, at the discretion of the Mayor, to a subordinate agency head who is required to hold a medical degree and who enters into a service agreement.

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**"Sec. 1057. Performance incentives**

"The Mayor may authorize performance incentives for exceptional service for subordinate agency heads not to exceed 10% of the rate of basic pay in any year. Exceptional service incentives may be paid only when the agency head is bound by a performance contract that clearly identifies measurable goals and outcomes and the agency head has exceeded contractual expectations in the year for which the incentive is paid.

Note,  
New Section  
**1-611.57**

**"Sec. 1058. Separation pay**

"A subordinate agency head may be paid separation pay of up to 12 weeks of his or her basic pay upon separation from the government at the discretion of the Mayor.

Note,  
New Section  
**1-611.58**

**"Sec. 1059. District residency**

"Any person who accepts appointment or is hired to fill a position in the Executive Service shall become a bona fide resident of the District within 180 days of the effective date of appointment and shall maintain District residency for the duration of the appointment. Failure to become a District resident or to maintain District residency shall result in forfeiture of the position to which the person has been appointed.

Note,  
New Section  
**1-611.59**

**"Sec. 1060. Subsequent appointments**

"No person holding a position in the Executive Service may be appointed to a position in the Career, Educational, or Management Supervisory Service for at least 1 year immediately following his or her separation from the Executive Service, except that, upon termination, a person with Career, Educational, or Management Supervisory Service status may retreat, at the discretion of the Mayor, within 3 months to a vacant position in the service for which he or she is qualified.

Note,  
New Section  
**1-611.60**

**"Sec. 1061. Universal leave**

"The Executive Service employees' leave system shall provide the following:

Note,  
New Section  
**1-611.61**

"(1) No employee shall earn annual or sick leave.

"(2) Each employee shall have a universal leave account.

"(3) Each employee's universal leave account shall be credited with 26 days on the first pay period of the leave year, or on a pro-rata basis for appointments after the first pay period of the leave year.

"(4) No employee shall be charged for leave for any absence which is less than 8 hours.

"(5) An employee may carry over, for use in succeeding years, not more than 5 days of unused universal leave.

"(6) Each employee in the Executive Service at the time this section becomes effective shall have his or her accrued annual leave balance, up to a maximum of 240 hours, transferred to an escrow account for use at the discretion of the employee until exhausted. The employee will be given a lump-sum payment for any annual leave in excess of 240 hours, payable at the rate of pay in effect immediately before the transition.

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"(7) Each employee appointed without a break in service to a position in the Executive Service from another position in the District government, shall have his or her accrued annual leave balance, up to a maximum of 240 hours, transferred to an escrow account for use at the discretion of the employee until exhausted. The employee will be given a lump-sum payment for any annual leave in excess of 240 hours, payable at the rate of pay in effect immediately before his or her appointment in the Executive Service.

"(8) Upon separation from his or her position in the Executive Service, any annual leave remaining in the escrow account and any universal leave to his or her credit (less a pro-rated amount representing the portion of the leave that would be creditable for the remainder of the year) will be paid at the employee's rate of pay at the time of separation.

"(9) Sick leave previously accrued under a different leave system shall be held in an escrow account and may be used at the discretion of the employee until exhausted.

**"Sec. 1062. Retirement benefits**

Note,  
New Section  
**1-611.62**

"Executive Service employees shall be covered under Title XXVI, except that employees first hired after September 30, 1987, may elect to participate in the District's defined contribution plan or may elect to have the funds that would otherwise be contributed by the District under the defined contribution plan directed to another 401(a) retirement plan.

**"Sec. 1063. Life insurance benefits**

Note,  
New Section  
**1-611.63**

"Executive Service employees shall be covered by the provisions of title XXII, except that any Executive Service employee, whether covered by federal life insurance benefits (pursuant to section 2201) or District life insurance benefits (pursuant to section 2203), may receive additional coverage for himself or herself, not to exceed twice the rate of that employee's basic pay. The cost of that coverage shall be borne solely by the District government.".

**(n) Title XI (D.C. Code § 1-612.1 *et seq.*) is amended as follows:**

Note, Section  
**1-612.2**  
Note, Section  
**1-612.3**  
Note, Section  
**1-612.3**

(1) Section 1102(c) (D.C. Code § 1-612.2(c)) is repealed.

(2) Section 1103(a)(4) (D.C. Code § 1-612.3(a)(4)) is repealed.

(3) The second sentence of section 1103(b) (D.C. Code § 1-612.3(b)), is

amended by inserting after the phrase "sections 2603 through 2612, section 12(n) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Code § 4-629(e))," the phrase "the Judges' Retirement Fund, established by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122; D.C. Code § 1-714),".

Note, Section  
**1-612.7**  
Note, Section  
**1-612.9**  
Note, Section  
**1-612.11**  
Note,

(4) Section 1107 (D.C. Code § 1-612.7) is repealed.

(5) Section 1109(a) and (c) (D.C. Code § 1-612.9(a) and (c)) is repealed.

(6) Section 1111(c) (D.C. Code § 1-612.11(c)) is repealed.

(7) A new section 1121 is added to read as follows:

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**"Sec. 1121. Personnel authority pilot programs**

New Section  
1-612.21

"(a) Notwithstanding any other provision of this title, or any other provision of law or regulation, and consistent with section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-242), the Mayor may implement pilot personnel programs in the areas of classification and compensation in the Department of Employment Services, the Department of Recreation and Parks and the Office of Personnel. Pilot programs may be established during any control period as defined in section 305 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; D.C. Code § 47-393), to help ensure successful implementation of the transformation of the District government workforce.

"(b) The Mayor may issue rules and regulations to implement these programs.".

(o) Title XII (D.C. Code § 1-613.1 *et seq.*) is amended as follows:

Note, Section  
1-613.1

(1) Section 1201 (D.C. Code § 1-613.1) is amended as follows:

(A) Subsection (e) is amended to read as follows:

"(e) The Mayor shall issue rules and regulations governing hours of work. These rules and regulations shall provide for the use of flexible and compressed work schedules when the schedules are considered both practicable and feasible. The scheduled work hours of employees in a flexible work schedule program or a compressed work schedule program shall not be subject to overtime requirements.".

(B) New subsections (f) and (g) are added to read as follows:

"(f) The hours which constitute a flexible work schedule or a compressed work schedule shall not be subject to the premium pay provisions of section 7 of Title 29 of the Fair Labor Standards Act of 1938 (29 U.S.C. § 207) as amended, or any other law which relates to premium pay for overtime work.

"(g) For the purposes of this section, "compressed schedule" means:

"(1) In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays; and

"(2) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays.".

Note, Section  
1-613.3

(2) Section 1203(a) (D.C. Code § 1-613.3(a)) is amended as follows:

(A) Paragraph (4) is amended by striking the word "or" at the end of the existing text.

(B) Paragraph (5) is amended to read as follows:

"(5) A temporary employee appointed for less than 90 days;".

(C) New paragraphs (6) and (7) are added to read as follows:

"(6) Employees first hired after September 30, 1987; or

"(7) Employees covered under title X-A.".

(3) A new section 1203a is added to read as follows:

Note,

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**"Sec. 1203a. Universal leave program**

New Section  
1-613.3a

"(a) The Mayor shall develop a universal leave system for Career and Excepted Service employees who were first employed by the District of Columbia government on or after October 1, 1987, excluding police officers, firefighters, and employees excluded from earning leave pursuant to section 1203(a)(1) through (a)(5). The universal leave system shall include disability income protection for non work-related illness and injury.

"(b) Within 90 days of the effective date of this section, the Mayor shall submit the universal leave system to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed universal leave system by resolution within the 60 day review period, the proposed universal leave system shall be deemed approved.

"(c) The submission to the Council shall at a minimum include the following:

"(1) The rate at which universal leave shall be accrued;

"(2) The number of universal leave days that may be carried forward from one leave year to the next;

"(3) A provision for employees who are denied the opportunity to use their universal leave;

"(4) The percentage of income to be received under any disability insurance program and its tax status;

"(5) The definition of "disability" and a method for dispute resolution;

"(6) The stipulated waiting period before disability insurance income would commence;

"(7) The period of disability income protection;

"(8) Transition provisions;

"(9) The effective date of the universal leave system; and

"(10) Fiscal impact."

(4) Section 1205 (D.C. Code § 1-613.5) is amended by adding a new subsection (d) to read as follows:

Note, Section  
1-613.5

"(d) A personnel authority may enter into an agreement with another personnel authority to establish an annual leave bank program or to join an already existing annual leave bank program. The personnel authorities shall provide a copy of the written agreement to the Mayor and the Director of Personnel within 10 days of the agreement.".

(5) Section 1206 (D.C. Code § 1-613.6) is amended as follows:

Note, Section  
1-613.6

(A) Subsection (b) is amended by inserting after the word "limitation" the phrase "; however, the personnel authority or his or her designee may, in special circumstances, waive the limitation of the amount of annual leave that can be donated by an employee once the employee has donated the minimum of 4 hours of leave".

(B) A new subsection (b-1) is added to read as follows:

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"(b-1) A leave donor may designate the employee who is to receive the donated leave if the employee has applied for and been approved as a leave recipient. Any remaining donated annual leave, if not used by the designated leave recipient, becomes the property of the annual leave bank program for use by other leave recipients.".

(p) A new title XIII-A is added to read as follows:

**"TITLE XIII-A  
"PERFORMANCE MANAGEMENT"**

**"Sec. 1351. Performance management system established**

"There is established a comprehensive performance management system designed to:

"(1) Inform employees of work expectations;

"(2) Hold employees accountable for their performance, which shall include the requirement that an employee receive a rating of either "achieved expectations" or "exceeded expectations" pursuant to section 1352 for the rating period immediately prior to the due date for a periodic step increase to be able to receive that step increase, and that each failure to achieve the required rating shall result in the due date for the step increase being delayed for an additional year;

"(3) Objectively evaluate employees' work performance based on criteria that have been made known to the employees;

"(4) Improve employee performance through training;

"(5) Recognize employee accomplishment; and

"(6) Include customer satisfaction as an evaluation factor.

**"Sec. 1352. Performance management system**

"The performance management system shall provide for:

"(1) The development of individual performance plans for all employees;

"(2) Ratings based on one or more of the following performance management components:

"(A) Standards;

"(B) Objectives;

"(C) Real-time tasks and assignments; and

"(D) Competencies;

"(3) Rating levels of:

"(A) Exceeds expectations (outstanding);

"(B) Achieved expectations;

"(C) Below expectations; and

"(D) Failed expectations (unacceptable);

"(4) A rating process, with (at a minimum) annual evaluations which may include input from citizens, customers, peers, the employee, subordinates, and supervisors;

Note, Section  
1-614.1  
New  
Subchapter  
XIV-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-614.51

Note,  
New Section  
1-614.52

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"(5) A removal and reconsideration process, which may include the alternatives of reassignment and demotion; and

"(6) An opportunity to demonstrate an improvement in performance during the reconsideration process.

**"Sec. 1353. Transition provisions.**

"(a) Until regulations are issued by the Mayor, the Board of Education and the Board of Trustees of the University of the District of Columbia to implement the provisions of this title for their respective employees, the performance evaluation systems in effect on the date of enactment of this section shall continue in effect.

"(b) Notwithstanding any other provision of law or of any collective bargaining agreement, the implementation of the performance management system established in this title is a non-negotiable subject for collective bargaining.".

(q) Title XIV (D.C. Code § 1-615.1 through 1-615.5) is repealed.

(r) Title XVI (D.C. Code § 1-617.1 *et seq.*) is repealed.

(s) A new Title XVI-A is added to read as follows:

**"TITLE XVI-A  
"GENERAL DISCIPLINE AND GRIEVANCES"**

**"Sec. 1651. Policy**

"The District of Columbia government finds that a radical redesign of the adverse and corrective action system by replacing it with more positive approaches toward employee discipline is critical to achieving organizational effectiveness. To that end, 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 to establish a disciplinary system that includes:

"(1) A provision that disciplinary actions may only be taken for cause;

"(2) A definition of the causes for which a disciplinary action may be taken;

"(3) Prior written notice of the grounds on which the action is proposed to be

taken;

"(4) Except as provided in paragraph (5) of this section, a written opportunity to be heard before the action becomes effective, unless the agency head finds that taking action prior to the exercise of such opportunity is necessary to protect the integrity of government operations, in which case an opportunity to be heard shall be afforded within a reasonable time after the action becomes effective; and

"(5) An opportunity to be heard within a reasonable time after the action becomes effective when the agency head finds that taking action is necessary because the employee's conduct threatens the integrity of government operations; constitutes an immediate hazard to the agency, to other District employees, or to the employee; or is detrimental to the public health, safety or welfare.

Note,  
New Section  
1-613.53

Note, Sections  
1-615.1 -  
1-615.5  
Note, Sections  
1-617.1 -  
1-617.3  
New  
Subchapter  
XVII-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-617.51

**RE-ENROLLED ORIGINAL**

**"Sec. 1652. Disciplinary grievances and appeals**

Note,  
New Section  
1-617.52

"(a) An official reprimand or a suspension of less than 10 days may be contested as a grievance pursuant to section 1653 except that the grievance must be filed within 10 days of receipt of the final decision on the reprimand or suspension.

"(b) An appeal from a removal, a reduction in grade, or suspension of 10 days or more may be made to the Office of Employee Appeals. When, upon appeal, the action or decision by an agency is found to be unwarranted by the Office of Employee Appeals, the corrective or remedial action directed by the Office of Employee Appeals shall be taken in accordance with the provisions of title VI within 30 days of the OEA decision.

"(c) A grievance pursuant to subsection (a) of this section or an appeal pursuant to 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 act for employees in a bargaining unit represented by a labor organization. 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.

"(e) Matters covered under this act that also fall within the coverage of a negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either pursuant to section 603, or the negotiated grievance procedure, but not both.

"(f) An employee shall be deemed to have exercised their option pursuant to subsection (e) of this section to raise a matter either under the applicable statutory procedures or under the negotiated grievance procedure at such time as the employee timely files an appeal under this section or timely files a grievance in writing in accordance with the provision of the negotiated grievance procedure applicable to the parties, whichever event occurs first.

**"Sec. 1653. Grievances**

Note,  
New Section  
1-617.53

"(a) 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 provide for an alternative dispute resolution mechanism. The grievance system shall provide for the expeditious adjustment of grievances and complaints.

"(b) Except when an employee is grieving a disciplinary action pursuant to section 1652, no employee or applicant shall present a grievance pursuant to this section more than 45 days, not including Saturdays, Sundays, or legal holidays, after the date that the employee knew or should have known of the act or occurrence that is the subject of the grievance.

**RE-ENROLLED ORIGINAL**

**"Sec. 1654. Administrative leave; enforced leave**

Note,  
New Section  
1-617.54

"(a) Notwithstanding any other provision of this title, a personnel authority may authorize the placing of an employee on annual leave or leave without pay, as provided in this section, if:

"(1) A determination has been made that the employee utilized fraud in securing his or her appointment or that he or she falsified official records;

"(2) The employee has been indicted on, arrested for, or convicted of a felony charge (including conviction following a plea of nolo contendere); or

"(3) The employee has been indicted on, arrested for, or convicted of any crime (including conviction following a plea of nolo contendere) that bears a relationship to his or her position; except that no such relationship need be established between the crime and the employee's position in the case of uniformed members of the Metropolitan Police Department or correctional officers in the D.C. Department of Corrections.

"(b) Prior to placing an employee on enforced leave pursuant to this section, an employee shall initially be placed on administrative leave for a period of 5 work days, followed by enforced annual leave or, if no annual leave is available, leave without pay. The employee shall remain in this status until such time as an action pursuant to section 1652, taken as a result of the event that caused this administrative action, is effected or a determination is made that no such action pursuant to section 1652 will be taken.

"(c) An employee to be placed on enforced leave shall be provided with a written notice proposing that action during the 5-day period of administrative leave. To ensure receipt within the 5-day period, the initial delivery of notice may be accomplished either in person or by reading the notice to the employee over the telephone prior to actual delivery of the written notice.

"(d) A written notice issued pursuant to this section shall inform the employee of the following:

- "(1) The reasons for the proposed enforced leave;
- "(2) The beginning and ending dates of administrative leave;
- "(3) The beginning date of the proposed enforced leave;
- "(4) His or her right to respond, orally or in writing, or both, to the notice; and
- "(5) His or her right to be represented by an attorney or other representative.

"(e) Within the 5-day administrative leave period, the employee's explanation, if any, and statements of any witnesses shall be considered and a written decision shall be issued by the personnel authority.

"(f) If a determination is made to place the employee on annual leave or leave without pay, the decision letter shall inform him or her of the placement on enforced leave, the date the leave is to commence, and his or her right to grieve the action within 10 days of receipt of the written decision letter.

**RE-ENROLLED ORIGINAL**

"(g) If the basis for placing an employee on enforced leave pursuant to this section does not result in the taking of a disciplinary action pursuant to section 1652 (or, in the case of an incumbent of a statutory position, the employee is not disciplined or removed in accordance with the provisions of the statute establishing the position), any annual leave or pay lost as a result of this administrative action shall be restored retroactively.".

(t) Section 1717(b) (D.C. Code § 1-618.17(b)) is amended to read as follows:

Note, Section  
1-618.17

"(b) 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 ("management") shall meet with labor organizations ("labor") which 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.".

(u) Title XIX (D.C. Code § 1-620.1 *et seq.*) is amended as follows:

Note, Section  
1-620.1

(1) Section 1901 (D.C. Code § 1-620.1) is amended by adding a new subsection (c) to read as follows:

"(c) Awards to employees of the District government pursuant to this title may include tangible items with a monetary value of no more than \$50 and time off without loss of pay or charge to leave.".

(2) Section 1902 (D.C. Code § 1-620.2) is amended by inserting after the phrase "not exceed \$5000" the phrase "or 10% of the employee's scheduled rate of basic pay, whichever is greater".

Note, Section  
1-620.2

(3) A new section 1903 is added to read as follows:

"Sec. 1903. Personnel authority pilot programs

Note,  
New Section  
1-620.3

"(a) Notwithstanding any other provision of this title, or any other provision of law or regulation, and consistent with section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-242) the Mayor may implement pilot personnel programs in the area of incentive awards as related to performance, including gainsharing. Pilot programs may be established during any control period as defined in section 305 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 136; D.C. Code § 47-393), to help ensure successful implementation of the transformation of the District of Columbia government workforce.

"(b) The Mayor may issue rules and regulations to implement these programs.".

(v) A new title XX-A is added to read as follows:

"TITLE XX-A

"TESTING OF DRIVERS OF COMMERCIAL MOTOR VEHICLES FOR THE PRESENCE OF ALCOHOL AND CONTROLLED SUBSTANCES

"Sec. 2051. General

New  
Subchapter  
XXI-A,  
Chapter 6,  
Title 1

New Section  
1-621.51

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"In compliance with federal regulations issued pursuant to 49 U.S.C. § 31306, the Mayor and each personnel authority shall adopt and administer a program and issue rules for conducting pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing of employees who are employed as drivers of commercial motor vehicles, or who are candidates for such employment, for the use of alcohol and controlled substances.".

(w) Title XXII (D.C. Code § 1-623.1 *et seq.*) is amended as follows:

Section  
1-623.7

(1) Section 2207(b) (D.C. Code § 1-623.7(b)) is amended by striking the period at the end of the sentence and inserting the phrase ", except Executive Service employees." in its place.

(2) A new section 2215 is added to read as follows:

"Sec. 2215. Disability income protection

New Section  
1-623.15

"The Mayor shall establish a disability income program to include short- and long-term disability insurance which shall provide coverage for non-job-related injuries and illnesses.".

(x) Title XXIV (D.C. Code § 1-625.1 *et seq.*) is amended as follows:

(1) Sections 2401through 2404 are amended to read as follows:

"Sec. 2401. Policy

Note, Section  
1-625.1

"The Mayor and the District of Columbia Board of Education shall issue rules and regulations establishing a procedure for the orderly furloughing of employees or termination of employees, taking full account of nondiscrimination provisions and appointments objectives of this act. Each agency shall be considered a competitive area for reduction-in-force purposes. A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency. When as a result of a reorganization order a function is transferred from 1 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

Note, Section  
1-625.2

"(a) Reduction-in-force procedures shall apply to the Career and Educational Services and to persons appointed to the Excepted Service as attorneys and shall include:

"(1) A prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veterans preference, and relative work performance;

"(2) One round of lateral competition limited to positions within the employee's competitive level;

"(3) Priority reemployment consideration for employees separated;

"(4) Consideration of job sharing and reduced hours; and

"(5) Employee appeal rights.

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"(b)(1) For purposes of this title, a veterans preference eligibility will be defined in accordance with federal law and regulations issued by the U.S. Office of Personnel Management;

"(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) Performance ratings documented and approved which recognize outstanding performance shall serve to increase the employee's service for reduction-in-force purposes by 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 unacceptable performance ratings are not entitled to compete for retention.

"(c) For purposes of this title, each employee who is a bona fide resident of the District of Columbia shall have 3 years added to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government effective October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(d) A reduction-in-force action may not be taken until the employee has been afforded at least 15 days advance notice of such an action. The notification required by this subsection must be in writing and must include information pertaining to the employee's retention standing and appeal rights.

"(e) Notwithstanding any other provision of law, the Board of Education shall not require or permit non-school-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.

**"Sec. 2403. Responsibility**

Note, Section  
1-625.3

"The appropriate personnel authority shall be responsible for making a final determination that a reduction in force is necessary and for ensuring that the provisions of this title and rules and regulations issued pursuant to this title are applied when effecting a reduction-in-force within their respective agency.

**"Sec. 2404. Appeals**

Note, Section  
1-625.4

"An employee who has received a specific notice that he or she has been identified for separation from his or her 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 incorrectly applied the provisions of this title or the rules and regulations issued pursuant to this title. An

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appeal must be filed no later than 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.

(2) Sections 2405 and 2406 are repealed.

(3) A new section 2407 is added to read as follows:

**"Sec. 2407. Severance pay**

"An employee separated pursuant to this title shall be entitled to severance pay in accordance with title XI, except as provided in this section.

Note, Sections  
1-625.5 -  
1-625.6

Note,  
New Section  
1-625.7

(1) Additional service credit shall be applied as follows:

"(A) Four years for an employee who qualifies for veterans preference;

and

"(B) Three years for an employee who qualifies for District residency

preference.

"(2) The total severance pay received over an employee's career in the District government shall not exceed 26 weeks of pay at the rate received immediately before separation."

(y) Section 2901(d) (D.C. Code § 1-630.1(d)) is amended to read as follows:

"(d) A decision by the Mayor to deny a waiver of the government's claim for erroneous employee payment shall be the final administrative decision of the District government.".

Note, Section  
1-630.1

(z) Section 3106 (D.C. Code § 1-632.6) is repealed.

(aa) Section 3401 (D.C. Code § 1-635.1) is repealed.

Section  
1-632.6  
Section  
1-635.1

### TITLE II. - Conforming Amendments.

Sec. 201. The District of Columbia Police and Firemen's Salary Act of 1958, approved August 1, 1958 (72 Stat. 481; D.C. Code § 4-406 *et seq.*), is amended by adding a new section 506a to read as follows:

"Sec. 506a. (a) The Council of the District of Columbia is authorized to change or suspend by resolution the provisions of sections 101, 201, 202, 203, 301, 302, 303, 304, 305, 401, 501, and 503 of this act insofar as they relate to officers and members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department.

New Section  
4-419.1

"(b) The Council's authority to act pursuant to subsection (a) of this section shall be effective beginning on January 1, 1980.".

Sec. 202. The Table of Contents of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

(1) By inserting, after the phrase "Sec. 909. APPOINTMENT OF ATTORNEYS", a new phrase to read as follows:

"IX-A. MANAGEMENT SUPERVISORY SERVICE

"SEC. 911. ESTABLISHMENT

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"SEC. 912. COMPOSITION

"SEC. 913. COMPETITIVE APPOINTMENTS

"SEC. 914. EMPLOYMENT-AT-WILL

"SEC. 915. MANAGEMENT SUPERVISORY SERVICE SKILLS MAINTENANCE  
AND ENHANCEMENT"

"SEC. 916. PAY FOR MANAGEMENT SUPERVISORY SERVICE

"SEC. 917. RESIDENCY PREFERENCE

"SEC. 918. TRANSITION PROVISIONS";

(2) By striking the phrase "X. EXECUTIVE SERVICE" and adding a new phrase in its place to read as follows:

"X. EXECUTIVE SERVICE

"SEC. 1001. POLICY

"SEC. 1002. EXECUTIVE SERVICE PAY SCHEDULE

"SEC. 1003. EXECUTIVE SERVICE PAY PLAN

"SEC. 1004. INCUMBENTS

"SEC. 1005. REASONABLE PRE-EMPLOYMENT TRAVEL AND RELOCATION  
EXPENSES AND TEMPORARY HOUSING ALLOWANCE

"SEC. 1006. ADDITIONAL INCOME ALLOWANCE

"SEC. 1007. HIRING AND PERFORMANCE INCENTIVES

"SEC. 1008. SEPARATION PAY

"SEC. 1009. DISTRICT RESIDENCY

"SEC. 1010. SUBSEQUENT APPOINTMENTS

"SEC. 1011. PERSONAL LEAVE

"SEC. 1012. RETIREMENT BENEFITS

"SEC. 1013. LIFE INSURANCE BENEFITS";

(3) By inserting after "Title XII a new section heading to read as follows:

"XIIIA. PERFORMANCE MANAGEMENT

"SEC. 1351. PERFORMANCE MANAGEMENT SYSTEM ESTABLISHED

"SEC. 1352. PERFORMANCE MANAGEMENT SYSTEM

"SEC. 1353. TRANSITION PROVISIONS.

(4) By striking the phrase "XVI. ADVERSE ACTIONS AND GRIEVANCES" and inserting a new phrase in its place to read as follows:

"XVI. GENERAL DISCIPLINE AND GRIEVANCES

"SEC. 1651. POLICY

"SEC. 1652. DISCIPLINARY GRIEVANCES AND APPEALS

"SEC. 1653. GRIEVANCES

"SEC. 1654. ADMINISTRATIVE LEAVE; ENFORCED LEAVE";

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(4) By striking the phrase "XXIV. REDUCTIONS-IN-FORCE" and inserting a new phrase in its place to read as follows:

### "XXIV. REDUCTIONS IN FORCE

- "SEC. 2401. POLICY
- "SEC. 2402. PROCEDURES
- "SEC. 2403. RESPONSIBILITY
- "SEC. 2404. APPEALS
- "SEC. 2405. SEVERANCE PAY".

### TITLE III. - Rule of Construction.

Sec. 301. Nothing in this act shall be construed as superseding the provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 712), except that section 11105(b)(3) of the Act is expressly superseded. Further, nothing in this act shall be construed as superseding the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97, D.C. Code § 47-391.1 *et seq.*) or of section 164 of the District of Columbia Appropriations Act, 1998, approved November 19, 1997 (Public Law 105-100; 111 Stat. 2160).

Note, Sections  
1-602.7,  
1-610.51,  
1-611.51,  
1-612.21,  
1-613.3a,  
1-614.51,  
1-617.51,  
1-620.3,  
1-621.51,  
1-623.15,  
4-419.1

### TITLE IV. - Applicability.

Sec. 401. (a) Section 101(d), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (y) of this act shall apply upon the enactment of legislation by the United States Congress that states the following:

"Notwithstanding any other law, section 101(d), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (y) of the Omnibus Personnel Reform Act of 1998, adopted by the Council of the District of Columbia is enacted into law."

(b) Section 101(o) of this act shall apply upon the enactment by the United States Congress of an amendment to 29 U.S.C. § 207 of the Fair Labor Standards Act to exempt the District of Columbia government from the applicability of the overtime provisions when employees are on a compressed work schedule up to 80 hours per pay period.

Note, Sections  
1-606.3,  
1-606.4,  
1-606.6,  
1-610.3,  
1-610.9,  
1-611.1,  
1-611.2,  
1-612.2,  
1-612.3,  
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1-620.2,  
1-625.1 -  
1-625.6

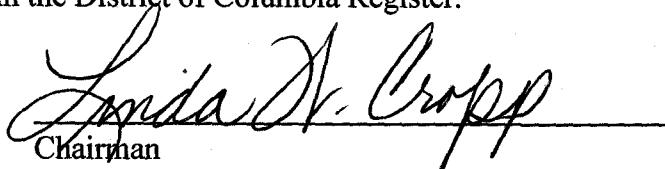
### TITLE V. - Fiscal Impact.

Sec. 501. The Council adopts the fiscal impact statement accompanying the committee report 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. Code § 1-233(c)(3)).

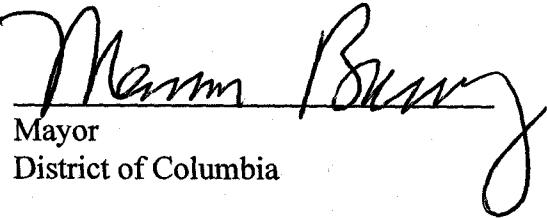
**RE-ENROLLED ORIGINAL**

**TITLE VI. - Effective Date.**

Sec. 601. 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), approval by the District of Columbia Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Linda M. Cropp  
Chairman  
Council of the District of Columbia



Marion Barry  
Mayor  
District of Columbia

APPROVED: April 1, 1998



## COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

## RECORD OF OFFICIAL COUNCIL VOTE

B12-44

Docket No.

| | ITEM ON CONSENT CALENDAR

 ACTION & DATE

ADOPTED FIRST READING, 2-3-98

 VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

ABSENT

THOMAS

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

Secretary to the Council

Date

## CERTIFICATION RECORD

| | ITEM ON CONSENT CALENDAR

 ACTION & DATE

ADOPTED FINAL READING, 3-17-98

 VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

ABSENT

CHAVOUS AND MASON

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB-Absent

NV-Present not voting

Secretary to the Council

Date

## CERTIFICATION RECORD

| | ITEM ON CONSENT CALENDAR

| | ACTION &amp; DATE

| | VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

| | ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

## CERTIFICATION RECORD

Secretary to the Council

Date

**RE-ENROLLED ORIGINAL**

**AN ACT**

*Codification  
District of  
Columbia  
Code  
1998 Supp.*

**IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to modify the definition of "grievance" to exclude certain adverse actions, to exclude the Department of Public and Assisted Housing, the Commission on Public Health, Commission for Women, Office of Policy, Office of Program Evaluation, Office of Housing Reorganization, Commission on Asian and Pacific Islander Affairs, Office of Communications, the Office of Documents, and the Office of International Business from the list of subordinate agencies and add the Commission on the Arts and Humanities, Department of Health, Office of Contracting and Procurement, the Commission on Health Care Finance, and the Department of Insurance and Securities Regulation as subordinate agencies, to change the name of the Department of Human Services to the Department of Human Development in the list of subordinate agencies, to add the Budget Director to the Council to the list of statutory officeholders, to subject all rulemaking, including those pertaining to health, life insurance, and retirement benefits to a 30-day review period rather than the current 60-day period, to limit employee appeals to the Office of Employee Appeals to disciplinary actions and RIFs, or certain disciplinary actions that result in removals, reductions in grades, and suspensions of 10 days or more within 30 days of an disciplinary action and to require employees covered by a negotiated grievance procedure to elect remedies between that procedure and OEA, to limit agency hearing procedures to removals and to provide for enforced leave without pay in instances involving fraud or criminal charges, to allow the Office of Employee Appeals to develop a mediation program, to allow time-limited appointments to positions below DS-13 in the Career Service to be noncompetitive, include District residency as a criterion for consideration in reduction-in-force proceedings in the Career and Educational Services, to allow qualified retreat rights from the Excepted Service to the Career, Management Supervisory, and Educational Services, and prohibit appointment in those services for certain employees leaving the Excepted Service in the 6-month period preceding a Mayoral election, to establish an alternative pay system,



**RE-ENROLLED ORIGINAL**

allow performance incentives, provide for separation pay, and allow reimbursement for certain employment costs to Excepted Service employees, to allow the Director of Personnel to waive the residency requirement for hard-to-fill Excepted Service positions, to establish the Management Supervisory Service to be composed of employees whose functions include responsibility for project management and supervision of staff and the achievement of the project's overall goals and objectives, to re-establish the Executive Service with pay enhancements, travel allowances, and income performance incentives, to provide the Mayor with the authority to establish pilot personnel programs in the areas of classification and compensation in the Department of Employment Services, the Department of Recreation and Parks, and the Office of Personnel, to require the Mayor to include compressed work schedules in the work hours regulations, to make certain enhancements to the annual leave bank program, to require the Mayor develop a universal leave system for certain full-time and part-time employees hired after September 30, 1987, to eliminate the performance evaluation system and establish a comprehensive performance management system including a requirement linking performance to step increases, to re-establish the adverse action and grievance provisions of the act with the intent of installing more positive approaches toward employee discipline, to permit tangible incentive awards a monetary value of no more than \$50 and time off without loss of pay or charge to leave and permit cash awards to \$5,000 or 10% of the employee's schedule rate of basic pay, whichever is greater, to grant the Mayor authority to initiate pilot incentive awards programs including gainsharing, to require the Mayor and each personnel authority to establish a program to comply with federal regulations concerning employees who are drivers of commercial motor vehicles, to authorize the Mayor to establish a disability income program for non-job-related injuries and illnesses, to re-establish the reduction-in-force provisions to include attorneys appointed to the Excepted Service, provide for 1 round of lateral competition limited to positions within the employee's competitive level, provide employees who are residents of the District with 3 years additional creditable service for RIF purposes, reduce the 30-day notice requirement before a RIF can be instituted to 15 days notice, and establish 26 weeks pay as the maximum amount of severance pay, eliminate the provision allowing RIF policies and procedures to be appropriate matters for collective bargaining, to remove the Office of Employee Appeals from the process of adjudicating requests for waivers of government claims for erroneous payment to an employee and to eliminate an employee's right to appeal a decision by the Mayor or an agency head concerning privacy of personnel records and employee's access to his or her personnel records, and to repeal the annual reporting requirement on the personnel system; and to amend the District of Columbia Police and Firemen's Salary Act of 1958 to allow the Council, by resolution, to suspend all provisions of the act, related to



**RE-ENROLLED ORIGINAL**

District employees, except provisions concerning the Council's authority to promulgate regulations, retroactive pay, and the Mayor's and certain federal agency head's authority to delegate their authority.

**BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Personnel Reform Amendment Act of 1998".**

**TITLE I. - Personnel Reform.**

Sec. 101. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

(a) Section 301 (D.C. Code § 1-603.1) is amended as follows:

Section  
1-603.1

(1) Subsection (j) (D.C. Code § 1-603.1(10)) is amended by inserting after the phrase "welfare of employees" the phrase ", but does not include adverse actions resulting in removals, suspension of 10 days or more, or reductions in grade, reductions in force, or classification matters. This definition applies to matters which are subject to procedures established pursuant to section 1603 and is not intended to restrict matters that may be subject to a negotiated grievance and arbitration procedure in a collective bargaining agreement between the District and a labor organization representing employees."

(2) Subsection (q) (D.C. Code § 1-603.1(17)) is amended as follows:

Section  
1-603.1

(A) Paragraph (8) is amended by inserting the phrase "and Emergency Medical Services" after the word "Fire".

(B) Paragraphs (11), (14)(B), (24), (28), (29), (31), (32), (33), (35) and (37) are repealed.

(C) Paragraph (13) is amended by inserting the phrase "and Parks" after the word "Recreation".

(D) Paragraph (14) is amended by striking the word "Services" and inserting the word "Development" in its place.

(E) Paragraph (36) is amended by striking the word "and" at the end of the paragraph.

(F) Paragraph (37) is amended by striking the period at the end of paragraph (37) and inserting a semicolon in its place.

(G) New paragraphs (38), (39), (40), (41), and (42) are added to read as follows:

- "(38) Commission on the Arts and Humanities;
- "(39) Department of Health;



**RE-ENROLLED ORIGINAL**

- "(40) Office of Contracting and Procurement;  
"(41) The Commission on Health Care Finance; and  
"(42) Department of Insurance and Securities Regulation.".
- (b) Section 405 (D.C. Code § 1-604.5) is amended to read as follows:
- "Rules and regulations proposed or issued pursuant to section 404, and amendments, shall be issued according to the provisions of section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code § 1-1506).".
- (c) Section 406(b)(3) (D.C. Code § 1-604.6(b)(3)) is amended by striking the phrase "Secretary and General Counsel to the Council" and inserting the phrase "Secretary, General Counsel, and Budget Director to the Council" in its place.
- (d) Title VI (D.C. Code § 1-606.1 *et seq.*) is amended as follows:
- (1) Section 603(a) (D.C. Code § 1-606.3(a)) is amended to read as follows:
- "(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to title XIII-A), an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more (pursuant to title XVI-A), or a reduction-in-force (pursuant to title XXIV) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed agency action.".
- (2) Section 604(a) through (e) (D.C. Code § 1-606.4(a) through (e)) is amended to read as follows:
- "(a) The personnel authority shall establish internal rules and regulations, not inconsistent with the procedures of this title, for conducting hearings affecting individual employees whose removal is proposed or effected for cause pursuant to title XVI.
- "(b) The personnel authority shall provide for 15 days advance notice in writing stating the specific reasons for the proposed action prior to an adverse action against an employee for cause that results in removal, a reduction in grade, or a suspension of 10 days or more. This provision may be waived by the agency head if the employee's conduct threatens the integrity of government operations, constitutes an immediate hazard to the agency, to other employees of the government, or to the employee, or to the public health, safety, or welfare.
- "(c) The personnel authority shall provide that any employee whose removal from service, reduction in grade, or suspension of 10 days or more is proposed, or whose removal is effected pursuant to section 1651(5) have the following rights:
- "(1) To review any material upon which the proposal or action is based;
- "(2) To prepare a written response to the notice provided in subsection (b) of this section, including affidavits and other documentation;
- "(3) To be represented by an attorney or other representative; and

Section  
1-604.5

Section  
1-604.6

Note, Section  
1-606.3

Note, Section  
1-606.4

**RE-ENROLLED ORIGINAL**

"(4) To be heard, as provided in subsection (d) of this section in the case of a removal.

"(d) The personnel authority shall provide an administrative review by a hearing officer appointed by the agency head of a proposed removal action or a removal action pursuant to section 1651(5) including the employee's response, if any, and may provide for an adversary hearing and the confrontation of witnesses.

"(e) The personnel authority shall provide the employee with a written decision following the review provided in subsection (d) of this section, and shall advise each employee of his or her right to appeal to the Office as provided in this title.".

(3) Section 605 (D.C. Code § 1-606.6) is amended as follows:

(A) The section heading is amended to read as follows:  
"Mediation and settlement.".

(B) The existing text is designated as subsection (b).  
(C) A new subsection (a) is added to read as follows:

"(a) The Office may, in its discretion, develop a mediation program.".

(e) Section 801(a) (D.C. Code § 1-608.1(a)) is amended as follows:

(1) The first sentence of the lead-in language is amended by striking the phrase "Excepted, Executive or Educational Service" and inserting the phrase "Excepted, Executive, Educational, or Management Supervisory Service" in its place.

(2) Paragraph (6) is amended as follows:

(A) By inserting the phrase ", term," after the word "Temporary"; and  
(B) By inserting the phrase ", except that such appointments to positions

at the DS-12 level or equivalent or below may be made non-competitively" before the semicolon.

(3) Paragraph (12)(A) is amended by inserting the phrase "District residency," before the word "veterans".

(f) Section 801A(b)(2)(L) (D.C. Code § 1-609.1(b)(2)(L)) is amended in the first phrase by inserting the phrase "District residency," before the word "veterans".

(g) Section 902 (D.C. Code § 1-610.2) is amended by striking the second sentence and inserting in its place a new sentence to read as follows:

"No person holding an Excepted Service appointment pursuant to section 903 or 908 may be appointed to a position in the Career, Management Supervisory, or Educational Service during the 6 month period immediately preceding a Mayoral election. However, upon termination, a person with Career or Educational Service status may retreat, at the discretion of the terminating personnel authority, within 3 months to a vacant position in such service for which he or she is qualified. The provisions of this subsection shall not apply to employees of the Council of the District of Columbia.".

(h) Section 903 (D.C. Code § 1-610.3) is amended by adding new subsections (d), (e), (f), and (g) to read as follows:

Section  
1-606.6

Section  
1-608.1

Section  
1-609.1  
Section  
1-610.2

Note, Section  
1-610.3

**RE-ENROLLED ORIGINAL**

"(d) At the discretion of the personnel authority, an individual appointed to the Excepted Service at grade level DS-11 or above pursuant to this section:

"(1) May be paid in accordance with the pay schedule for the Management Supervisory Service as provided in section 956; and

"(2) May be placed in any step of the appropriate grade of that schedule.

"(e) The personnel authority may authorize performance incentives for exceptional service for individuals appointed pursuant to this section not to exceed 10% of the rate of basic pay in any year. Such exceptional service incentives may be paid only when the Excepted Service employee is bound by a performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is paid.

"(f) An individual appointed to the Excepted Service pursuant to this section or section 908 shall be paid separation pay of up to 12 weeks of his or her basic pay upon separation for non-disciplinary reasons.

"(g) Pursuant to regulations as the Mayor may prescribe, the following expenses may be paid to an individual being interviewed for, or an appointee to, a hard-to-fill Excepted Service position at a DS-11 or above:

"(1) Reasonable pre-employment travel expenses;

"(2) Reasonable relocation expenses for the Excepted Service selectee or appointee and his or her immediate family if they relocate to the District of Columbia from outside the Greater Washington Metropolitan Area; and

"(3) A reasonable temporary housing allowance, for a period not to exceed 60 days, for the Excepted Service selectee or appointee and his or her immediate family.".

(i) Section 906 (D.C. Code § 1-610.6) is amended by adding a new subsection (d) to read as follows:

"(d) The Director of Personnel may waive the residency requirement in subsection (a) of this section for any individual appointed to a hard-to-fill position under section 903(a)(1) or (2).".

(j) Section 908 (D.C. Code § 1-610.8) is amended as follows:

(a) Subsection (1) is amended by striking the word "and" at the end.

(b) Subsection (m) is amended by striking the period and inserting a semicolon its place.

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

"(n) Budget Director to the Council"."

(k) A new title IX-A is added to read as follows:

**"TITLE IX-A**

**"MANAGEMENT SUPERVISORY SERVICE**

Section  
1-610.6

Section  
1-610.8

Note, Section  
1-610.9  
New  
Subchapter  
X-A,  
Chapter 6,  
Title 1

## RE-ENROLLED ORIGINAL

### **"Sec. 951. Establishment"**

"There is established within the District government the Management Supervisory Service to ensure that each agency has the highest quality managers and supervisors who are responsive to the needs of the government. Persons appointed to the Management Supervisory Service are not in the Career, Educational, Excepted, or Executive Service.

Note,  
New Section  
1-610.51

### **"Sec. 952. Composition"**

"Each individual (except for employees appointed pursuant to sections 901 through 908 or titles VIII-A or X, employees of the Board of Education, employees of the Board of Trustees of the University of the District of Columbia, and uniformed members of the Metropolitan Police Department or the D.C. Fire and Emergency Medical Services Department) who meets the definition of "management employee" pursuant to section 1411(5) shall be in the Management Supervisory Service.

Note,  
New Section  
1-610.52

### **"Sec. 953. Competitive appointments"**

"Appointments by the personnel authority shall be made on the basis of merit from among the highest qualified applicants, based on specific job requirements. Examining procedures shall be designed to achieve the maximum objectivity, reliability, and validity.

Note,  
New Section  
1-610.53

### **"Sec. 954. Employment-at-will"**

"(a) An appointment to a position in the Management Supervisory Service shall be an at-will appointment. Management Supervisory Service employees shall be given a 15-day notice prior to termination. Upon termination, a person with Career or Educational Service status, or with Excepted Service status due to appointment as an attorney pursuant to section 909, may retreat, at the discretion of the personnel authority, within 3 months of the effective date of the termination, to a vacant position within the agency to which he or she was promoted for which he or she is qualified.

Note,  
New Section  
1-610.54

"(b) Employees appointed to the Management Supervisory Service shall be given severance pay in accordance with title XI upon separation for non-disciplinary reasons.

### **"Sec. 955. Management Supervisory Service skills maintenance and enhancement"**

Note,  
New Section  
1-610.55

"Management Supervisory Service employees shall be required to maintain and enhance their management and supervisory skills.

### **"Sec. 956. Pay for Management Supervisory Service"**

Note,  
New Section  
1-610.56

"A pay schedule shall be developed by the Mayor following a classification and compensation study for the Management Supervisory Service.

### **"Sec. 957. Residency preference"**

Note,  
New Section  
1-610.57

"The provisions of section 801(e)(1), (2), (3), (5), (6), and (7) shall apply to employment in the Management Supervisory Service.

### **"Sec. 958. Transition provisions"**

Note,  
New Section  
1-610.58

"Persons currently holding appointments to positions in the Career Service who meet the definition of "management employee" as defined in section 1411(5) shall be appointed to the

## RE-ENROLLED ORIGINAL

Management Supervisory Service unless the employee declines the appointment. Persons declining appointment shall have priority for appointment to the Career Service if a vacant position for which they qualify is available within the agency and is acceptable to the employee. If no such vacant position is available, a 30-day separation notice shall be issued to the employee."

- (l) Title X (D.C. Code § 1-611.1) is repealed.
- (m) A new Title X-A is added to read as follows:

"TITLE X-A  
"EXECUTIVE SERVICE

**"Sec. 1051. Policy**

"(a) An Executive Service is established to ensure that the executive management of the District of Columbia government is responsive to the needs of the citizens and the goals of the government. Persons serving in the Executive Service shall assist the Mayor in advancing program responsibilities of the District government.

"(b) The Mayor shall nominate persons to serve as subordinate agency heads in the Executive Service pursuant to the provisions of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Code § 1-633.7). Individuals appointed to the Executive Service, other than the Chief Procurement Officer, shall serve at the pleasure of the Mayor.

"(c) The compensation and benefits system for the Executive Service is designed to attract and retain the highest caliber public administrators, who shall be accountable for the effective and efficient management of subordinate agencies.

**"Sec. 1052. Executive Service pay schedule**

"(a) The Executive Schedule ("DX Schedule"), shall be divided into five pay levels and shall be the basic pay schedule for subordinate agency head positions.

"(b) The Mayor shall designate the appropriate level for each subordinate agency head position.

"(c) Each level shall have a minimum and maximum salary range established by the Mayor, subject to Council review and approval by resolution. Initial salary ranges shall be submitted by the Mayor to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 60-day period, the proposed salary ranges shall be deemed approved.

"(d) Any subsequent changes to the salary ranges established pursuant to subsection (c) of this section shall be submitted by the Mayor to the Council for a 15-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed changes to the salary ranges by resolution within this 15-day period, the proposed salary ranges shall be deemed approved.

Note, Section  
1-611.1  
Note, Section  
1-611.2  
New  
Subsection  
XI-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-611.51

Note,  
New Section  
1-611.52



## RE-ENROLLED ORIGINAL

"(e) Initial salary ranges and any subsequent changes to the salary ranges shall become effective upon approval and shall be published in the *District of Columbia Register* for notice purposes within 45 days of their approval.

"Sec. 1053. Executive Service pay plan

"(a) A person appointed to a position in the Executive Service shall be appointed at the level on the DX Schedule designated for the subordinate agency to which he or she is appointed, and shall receive a salary set at any amount within the salary range for that level that the Mayor determines to be appropriate.

"(b) The salary of any person holding an appointment to a position in the Executive Service may, at any time, be increased or decreased by the Mayor, at his or her sole discretion, to any other salary within the salary range for the level occupied.

"(c) The salary of an employee in the Executive Service who is temporarily assigned to a position at a higher or lower level on the DX Schedule shall be set, at the discretion of the Mayor, at any rate within the salary range of the level to which the employee is temporarily assigned or the salary range of the level of the position from which officially appointed.

"(d) A person paid from the DX Schedule shall not be entitled to premium pay.

"Sec. 1054. Incumbents

"A person holding an appointment to a position in the Executive Service on the effective date provided for the enactment of congressional legislation in section 401(a) of the Omnibus Personnel Reform Amendment Act of 1998 shall continue to be paid at his or her existing rate of pay until the Mayor effects a personnel action establishing a new salary within the designated range for the level of the position to which the person is appointed.

"Sec. 1055. Reasonable pre-employment travel and relocation expenses and temporary housing allowance

"Pursuant to regulations the Mayor may prescribe, the following expenses may be paid in connection with Executive Service employment:

"(1) Reasonable pre-employment travel expenses for an individual being interviewed for a subordinate agency head position;

"(2) Reasonable relocation expenses for an Executive Service selectee or appointee and his or her immediate family if they are relocating to the District of Columbia from outside the Greater Washington Metropolitan Area; and

"(3) A reasonable temporary housing allowance, for a period not to exceed 60 days, for an Executive Service selectee or appointee and his or her immediate family.

"Sec. 1056. Additional income allowance

"An additional income allowance of up to 15% of the maximum rate of pay for the level held may be paid, at the discretion of the Mayor, to a subordinate agency head who is required to hold a medical degree and who enters into a service agreement.

Note,  
New Section  
1-611.53

Note,  
New Section  
1-611.54

Note,  
New Section  
1-611.55

Note,  
New Section  
1-611.56



## RE-ENROLLED ORIGINAL

### **"Sec. 1057. Performance incentives**

"The Mayor may authorize performance incentives for exceptional service for subordinate agency heads not to exceed 10% of the rate of basic pay in any year. Exceptional service incentives may be paid only when the agency head is bound by a performance contract that clearly identifies measurable goals and outcomes and the agency head has exceeded contractual expectations in the year for which the incentive is paid.

Note,  
New Section  
1-611.57

### **"Sec. 1058. Separation pay**

"A subordinate agency head may be paid separation pay of up to 12 weeks of his or her basic pay upon separation from the government at the discretion of the Mayor.

Note,  
New Section  
1-611.58

### **"Sec. 1059. District residency**

"Any person who accepts appointment or is hired to fill a position in the Executive Service shall become a bona fide resident of the District within 180 days of the effective date of appointment and shall maintain District residency for the duration of the appointment. Failure to become a District resident or to maintain District residency shall result in forfeiture of the position to which the person has been appointed.

Note,  
New Section  
1-611.59

### **"Sec. 1060. Subsequent appointments**

"No person holding a position in the Executive Service may be appointed to a position in the Career, Educational, or Management Supervisory Service for at least 1 year immediately following his or her separation from the Executive Service, except that, upon termination, a person with Career, Educational, or Management Supervisory Service status may retreat, at the discretion of the Mayor, within 3 months to a vacant position in the service for which he or she is qualified.

Note,  
New Section  
1-611.60

### **"Sec. 1061. Universal leave**

"The Executive Service employees' leave system shall provide the following:

Note,  
New Section  
1-611.61

"(1) No employee shall earn annual or sick leave.

"(2) Each employee shall have a universal leave account.

"(3) Each employee's universal leave account shall be credited with 26 days on the first pay period of the leave year, or on a pro-rata basis for appointments after the first pay period of the leave year.

"(4) No employee shall be charged for leave for any absence which is less than 8 hours.

"(5) An employee may carry over, for use in succeeding years, not more than 5 days of unused universal leave.

"(6) Each employee in the Executive Service at the time this section becomes effective shall have his or her accrued annual leave balance, up to a maximum of 240 hours, transferred to an escrow account for use at the discretion of the employee until exhausted. The employee will be given a lump-sum payment for any annual leave in excess of 240 hours, payable at the rate of pay in effect immediately before the transition.



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"(7) Each employee appointed without a break in service to a position in the Executive Service from another position in the District government, shall have his or her accrued annual leave balance, up to a maximum of 240 hours, transferred to an escrow account for use at the discretion of the employee until exhausted. The employee will be given a lump-sum payment for any annual leave in excess of 240 hours, payable at the rate of pay in effect immediately before his or her appointment in the Executive Service.

"(8) Upon separation from his or her position in the Executive Service, any annual leave remaining in the escrow account and any universal leave to his or her credit (less a pro-rated amount representing the portion of the leave that would be creditable for the remainder of the year) will be paid at the employee's rate of pay at the time of separation.

"(9) Sick leave previously accrued under a different leave system shall be held in an escrow account and may be used at the discretion of the employee until exhausted.

### "Sec. 1062. Retirement benefits"

"Executive Service employees shall be covered under Title XXVI, except that employees first hired after September 30, 1987, may elect to participate in the District's defined contribution plan or may elect to have the funds that would otherwise be contributed by the District under the defined contribution plan directed to another 401(a) retirement plan.

Note,  
New Section  
1-611.62

### "Sec. 1063. Life insurance benefits"

"Executive Service employees shall be covered by the provisions of title XXII, except that any Executive Service employee, whether covered by federal life insurance benefits (pursuant to section 2201) or District life insurance benefits (pursuant to section 2203), may receive additional coverage for himself or herself, not to exceed twice the rate of that employee's basic pay. The cost of that coverage shall be borne solely by the District government."

Note,  
New Section  
1-611.63

#### (n) Title XI (D.C. Code § 1-612.1 *et seq.*) is amended as follows:

Note, Section  
1-612.2  
Note, Section  
1-612.3  
Note, Section  
1-612.3

(1) Section 1102(c) (D.C. Code § 1-612.2(c)) is repealed.

(2) Section 1103(a)(4) (D.C. Code § 1-612.3(a)(4)) is repealed.

(3) The second sentence of section 1103(b) (D.C. Code § 1-612.3(b)), is

amended by inserting after the phrase "sections 2603 through 2612, section 12(n) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Code § 4-629(e))," the phrase "the Judges' Retirement Fund, established by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122; D.C. Code § 1-714).".

(4) Section 1107 (D.C. Code § 1-612.7) is repealed.

Note, Section  
1-612.7

(5) Section 1109(a) and (c) (D.C. Code § 1-612.9(a) and (c)) is repealed.

Note, Section  
1-612.9

(6) Section 1111(c) (D.C. Code § 1-612.11(c)) is repealed.

Note, Section  
1-612.11

(7) A new section 1121 is added to read as follows:

Note,



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**"Sec. 1121. Personnel authority pilot programs**

New Section  
1-612.21

"(a) Notwithstanding any other provision of this title, or any other provision of law or regulation, and consistent with section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-242), the Mayor may implement pilot personnel programs in the areas of classification and compensation in the Department of Employment Services, the Department of Recreation and Parks and the Office of Personnel. Pilot programs may be established during any control period as defined in section 305 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; D.C. Code § 47-393), to help ensure successful implementation of the transformation of the District government workforce.

"(b) The Mayor may issue rules and regulations to implement these programs."

(o) Title XII (D.C. Code § 1-613.1 *et seq.*) is amended as follows:

(1) Section 1201 (D.C. Code § 1-613.1) is amended as follows:

(A) Subsection (e) is amended to read as follows:

"(e) The Mayor shall issue rules and regulations governing hours of work. These rules and regulations shall provide for the use of flexible and compressed work schedules when the schedules are considered both practicable and feasible. The scheduled work hours of employees in a flexible work schedule program or a compressed work schedule program shall not be subject to overtime requirements."

(B) New subsections (f) and (g) are added to read as follows:

"(f) The hours which constitute a flexible work schedule or a compressed work schedule shall not be subject to the premium pay provisions of section 7 of Title 29 of the Fair Labor Standards Act of 1938 (29 U.S.C. § 207) as amended, or any other law which relates to premium pay for overtime work.

"(g) For the purposes of this section, "compressed schedule" means:

"(1) In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays; and

"(2) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays."

(2) Section 1203(a) (D.C. Code § 1-613.3(a)) is amended as follows:

(A) Paragraph (4) is amended by striking the word "or" at the end of the existing text.

(B) Paragraph (5) is amended to read as follows:

"(5) A temporary employee appointed for less than 90 days;"

(C) New paragraphs (6) and (7) are added to read as follows:

"(6) Employees first hired after September 30, 1987; or

"(7) Employees covered under title X-A."

(3) A new section 1203a is added to read as follows:

Note, Section  
1-613.1

Note, Section  
1-613.3

Note,



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"Sec. 1203a. Universal leave program

New Section  
1-613.3a

"(a) The Mayor shall develop a universal leave system for Career and Excepted Service employees who were first employed by the District of Columbia government on or after October 1, 1987, excluding police officers, firefighters, and employees excluded from earning leave pursuant to section 1203(a)(1) through (a)(5). The universal leave system shall include disability income protection for non work-related illness and injury.

"(b) Within 90 days of the effective date of this section, the Mayor shall submit the universal leave system to the Council for a 60-day period of review, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed universal leave system by resolution within the 60 day review period, the proposed universal leave system shall be deemed approved.

"(c) The submission to the Council shall at a minimum include the following:

- "(1) The rate at which universal leave shall be accrued;
- "(2) The number of universal leave days that may be carried forward from one leave year to the next;
- "(3) A provision for employees who are denied the opportunity to use their universal leave;
- "(4) The percentage of income to be received under any disability insurance program and its tax status;
- "(5) The definition of "disability" and a method for dispute resolution;
- "(6) The stipulated waiting period before disability insurance income would commence;
- "(7) The period of disability income protection;
- "(8) Transition provisions;
- "(9) The effective date of the universal leave system; and
- "(10) Fiscal impact."

(4) Section 1205 (D.C. Code § 1-613.5) is amended by adding a new subsection (d) to read as follows:

Note, Section  
1-613.5

"(d) A personnel authority may enter into an agreement with another personnel authority to establish an annual leave bank program or to join an already existing annual leave bank program. The personnel authorities shall provide a copy of the written agreement to the Mayor and the Director of Personnel within 10 days of the agreement."

Note, Section  
1-613.6

(5) Section 1206 (D.C. Code § 1-613.6) is amended as follows:

(A) Subsection (b) is amended by inserting after the word "limitation" the phrase "; however, the personnel authority or his or her designee may, in special circumstances, waive the limitation of the amount of annual leave that can be donated by an employee once the employee has donated the minimum of 4 hours of leave".

(B) A new subsection (b-1) is added to read as follows:

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"(b-1) A leave donor may designate the employee who is to receive the donated leave if the employee has applied for and been approved as a leave recipient. Any remaining donated annual leave, if not used by the designated leave recipient, becomes the property of the annual leave bank program for use by other leave recipients.".

(p) A new title XIII-A is added to read as follows:

### "TITLE XIII-A "PERFORMANCE MANAGEMENT

#### **"Sec. 1351. Performance management system established**

"There is established a comprehensive performance management system designed to:

"(1) Inform employees of work expectations;  
"(2) Hold employees accountable for their performance, which shall include the requirement that an employee receive a rating of either "achieved expectations" or "exceeded expectations" pursuant to section 1352 for the rating period immediately prior to the due date for a periodic step increase to be able to receive that step increase, and that each failure to achieve the required rating shall result in the due date for the step increase being delayed for an additional year;

"(3) Objectively evaluate employees' work performance based on criteria that have been made known to the employees;

- "(4) Improve employee performance through training;
- "(5) Recognize employee accomplishment; and
- "(6) Include customer satisfaction as an evaluation factor.

#### **"Sec. 1352. Performance management system**

"The performance management system shall provide for:

"(1) The development of individual performance plans for all employees;  
"(2) Ratings based on one or more of the following performance management components:

- "(A) Standards;
  - "(B) Objectives;
  - "(C) Real-time tasks and assignments; and
  - "(D) Competencies;
- "(3) Rating levels of:
- "(A) Exceeds expectations (outstanding);
  - "(B) Achieved expectations;
  - "(C) Below expectations; and
  - "(D) Failed expectations (unacceptable);

"(4) A rating process, with (at a minimum) annual evaluations which may include input from citizens, customers, peers, the employee, subordinates, and supervisors;

Note, Section  
1-614.1  
New  
Subchapter  
XIV-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-614.51

Note,  
New Section  
1-614.52

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"(5) A removal and reconsideration process, which may include the alternatives of reassignment and demotion; and

"(6) An opportunity to demonstrate an improvement in performance during the reconsideration process.

**"Sec. 1353. Transition provisions.**

"(a) Until regulations are issued by the Mayor, the Board of Education and the Board of Trustees of the University of the District of Columbia to implement the provisions of this title for their respective employees, the performance evaluation systems in effect on the date of enactment of this section shall continue in effect.

"(b) Notwithstanding any other provision of law or of any collective bargaining agreement, the implementation of the performance management system established in this title is a non-negotiable subject for collective bargaining.".

(q) Title XIV (D.C. Code § 1-615.1 through 1-615.5) is repealed.

(r) Title XVI (D.C. Code § 1-617.1 *et seq.*) is repealed.

(s) A new Title XVI-A is added to read as follows:

**"TITLE XVI-A**

**"GENERAL DISCIPLINE AND GRIEVANCES"**

**"Sec. 1651. Policy**

"The District of Columbia government finds that a radical redesign of the adverse and corrective action system by replacing it with more positive approaches toward employee discipline is critical to achieving organizational effectiveness. To that end, 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 to establish a disciplinary system that includes:

"(1) A provision that disciplinary actions may only be taken for cause;

"(2) A definition of the causes for which a disciplinary action may be taken;

"(3) Prior written notice of the grounds on which the action is proposed to be taken;

"(4) Except as provided in paragraph (5) of this section, a written opportunity to be heard before the action becomes effective, unless the agency head finds that taking action prior to the exercise of such opportunity is necessary to protect the integrity of government operations, in which case an opportunity to be heard shall be afforded within a reasonable time after the action becomes effective; and

"(5) An opportunity to be heard within a reasonable time after the action becomes effective when the agency head finds that taking action is necessary because the employee's conduct threatens the integrity of government operations; constitutes an immediate hazard to the agency, to other District employees, or to the employee; or is detrimental to the public health, safety or welfare.

Note,  
New Section  
1-613.53

Note, Sections  
1-615.1 -  
1-615.5  
Note, Sections  
1-617.1 -  
1-617.3  
New  
Subchapter  
XVII-A,  
Chapter 6,  
Title 1  
Note,  
New Section  
1-617.51



## RE-ENROLLED ORIGINAL

### **"Sec. 1652. Disciplinary grievances and appeals**

Note,  
New Section  
1-617.52

"(a) An official reprimand or a suspension of less than 10 days may be contested as a grievance pursuant to section 1653 except that the grievance must be filed within 10 days of receipt of the final decision on the reprimand or suspension.

"(b) An appeal from a removal, a reduction in grade, or suspension of 10 days or more may be made to the Office of Employee Appeals. When, upon appeal, the action or decision by an agency is found to be unwarranted by the Office of Employee Appeals, the corrective or remedial action directed by the Office of Employee Appeals shall be taken in accordance with the provisions of title VI within 30 days of the OEA decision.

"(c) A grievance pursuant to subsection (a) of this section or an appeal pursuant to 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 act for employees in a bargaining unit represented by a labor organization. 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.

"(e) Matters covered under this act that also fall within the coverage of a negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either pursuant to section 603, or the negotiated grievance procedure, but not both.

"(f) An employee shall be deemed to have exercised their option pursuant to subsection (e) of this section to raise a matter either under the applicable statutory procedures or under the negotiated grievance procedure at such time as the employee timely files an appeal under this section or timely files a grievance in writing in accordance with the provision of the negotiated grievance procedure applicable to the parties, whichever event occurs first.

### **"Sec. 1653. Grievances**

Note,  
New Section  
1-617.53

"(a) 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 provide for an alternative dispute resolution mechanism. The grievance system shall provide for the expeditious adjustment of grievances and complaints.

"(b) Except when an employee is grieving a disciplinary action pursuant to section 1652, no employee or applicant shall present a grievance pursuant to this section more than 45 days, not including Saturdays, Sundays, or legal holidays, after the date that the employee knew or should have known of the act or occurrence that is the subject of the grievance.

**RE-ENROLLED ORIGINAL**

**"Sec. 1654. Administrative leave; enforced leave**

Note,  
New Section  
1-617.54

"(a) Notwithstanding any other provision of this title, a personnel authority may authorize the placing of an employee on annual leave or leave without pay, as provided in this section, if:

    "(1) A determination has been made that the employee utilized fraud in securing his or her appointment or that he or she falsified official records;

    "(2) The employee has been indicted on, arrested for, or convicted of a felony charge (including conviction following a plea of nolo contendere); or

    "(3) The employee has been indicted on, arrested for, or convicted of any crime (including conviction following a plea of nolo contendere) that bears a relationship to his or her position; except that no such relationship need be established between the crime and the employee's position in the case of uniformed members of the Metropolitan Police Department or correctional officers in the D.C. Department of Corrections.

    "(b) Prior to placing an employee on enforced leave pursuant to this section, an employee shall initially be placed on administrative leave for a period of 5 work days, followed by enforced annual leave or, if no annual leave is available, leave without pay. The employee shall remain in this status until such time as an action pursuant to section 1652, taken as a result of the event that caused this administrative action, is effected or a determination is made that no such action pursuant to section 1652 will be taken.

    "(c) An employee to be placed on enforced leave shall be provided with a written notice proposing that action during the 5-day period of administrative leave. To ensure receipt within the 5-day period, the initial delivery of notice may be accomplished either in person or by reading the notice to the employee over the telephone prior to actual delivery of the written notice.

    "(d) A written notice issued pursuant to this section shall inform the employee of the following:

- "(1) The reasons for the proposed enforced leave;
- "(2) The beginning and ending dates of administrative leave;
- "(3) The beginning date of the proposed enforced leave;
- "(4) His or her right to respond, orally or in writing, or both, to the notice; and
- "(5) His or her right to be represented by an attorney or other representative.

    "(e) Within the 5-day administrative leave period, the employee's explanation, if any, and statements of any witnesses shall be considered and a written decision shall be issued by the personnel authority.

    "(f) If a determination is made to place the employee on annual leave or leave without pay, the decision letter shall inform him or her of the placement on enforced leave, the date the leave is to commence, and his or her right to grieve the action within 10 days of receipt of the written decision letter.

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"(g) If the basis for placing an employee on enforced leave pursuant to this section does not result in the taking of a disciplinary action pursuant to section 1652 (or, in the case of an incumbent of a statutory position, the employee is not disciplined or removed in accordance with the provisions of the statute establishing the position), any annual leave or pay lost as a result of this administrative action shall be restored retroactively.".

(t) Section 1717(b) (D.C. Code § 1-618.17(b)) is amended to read as follows:

Note, Section  
1-618.17

"(b) 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 ("management") shall meet with labor organizations ("labor") which 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.".

(u) Title XIX (D.C. Code § 1-620.1 *et seq.*) is amended as follows:

Note, Section  
1-620.1

(1) Section 1901 (D.C. Code § 1-620.1) is amended by adding a new subsection (c) to read as follows:

"(c) Awards to employees of the District government pursuant to this title may include tangible items with a monetary value of no more than \$50 and time off without loss of pay or charge to leave.".

(2) Section 1902 (D.C. Code § 1-620.2) is amended by inserting after the phrase "not exceed \$5000" the phrase "or 10% of the employee's scheduled rate of basic pay, whichever is greater".

Note, Section  
1-620.2

(3) A new section 1903 is added to read as follows:

"Sec. 1903. Personnel authority pilot programs

Note,  
New Section  
1-620.3

"(a) Notwithstanding any other provision of this title, or any other provision of law or regulation, and consistent with section 422 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-242) the Mayor may implement pilot personnel programs in the area of incentive awards as related to performance, including gainsharing. Pilot programs may be established during any control period as defined in section 305 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 136; D.C. Code § 47-393), to help ensure successful implementation of the transformation of the District of Columbia government workforce.

"(b) The Mayor may issue rules and regulations to implement these programs.".

(v) A new title XX-A is added to read as follows:

### "TITLE XX-A

"TESTING OF DRIVERS OF COMMERCIAL MOTOR VEHICLES FOR THE  
PRESENCE OF ALCOHOL AND CONTROLLED SUBSTANCES

"Sec. 2051. General

New  
Subchapter  
XXI-A,  
Chapter 6,  
Title 1

New Section  
1-621.51

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"In compliance with federal regulations issued pursuant to 49 U.S.C. § 31306, the Mayor and each personnel authority shall adopt and administer a program and issue rules for conducting pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing of employees who are employed as drivers of commercial motor vehicles, or who are candidates for such employment, for the use of alcohol and controlled substances."

(w) Title XXII (D.C. Code § 1-623.1 *et seq.*) is amended as follows:

Section  
1-623.7

(1) Section 2207(b) (D.C. Code § 1-623.7(b)) is amended by striking the period at the end of the sentence and inserting the phrase ", except Executive Service employees." in its place.

(2) A new section 2215 is added to read as follows:

New Section  
1-623.15

"Sec. 2215. Disability income protection  
"The Mayor shall establish a disability income program to include short- and long-term disability insurance which shall provide coverage for non-job-related injuries and illnesses."

(x) Title XXIV (D.C. Code § 1-625.1 *et seq.*) is amended as follows:

(1) Sections 2401through 2404 are amended to read as follows:

Note, Section  
1-625.1

"Sec. 2401. Policy  
"The Mayor and the District of Columbia Board of Education shall issue rules and regulations establishing a procedure for the orderly furloughing of employees or termination of employees, taking full account of nondiscrimination provisions and appointments objectives of this act. Each agency shall be considered a competitive area for reduction-in-force purposes. A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency. When as a result of a reorganization order a function is transferred from 1 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.

Note, Section  
1-625.2

"(a) Reduction-in-force procedures shall apply to the Career and Educational Services and to persons appointed to the Excepted Service as attorneys and shall include:

"(1) A prescribed order of separation based on tenure of appointment, length of service including creditable federal and military service, District residency, veterans preference, and relative work performance;

"(2) One round of lateral competition limited to positions within the employee's competitive level;

"(3) Priority reemployment consideration for employees separated;

"(4) Consideration of job sharing and reduced hours; and

"(5) Employee appeal rights.



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"(b)(1) For purposes of this title, a veterans preference eligibility will be defined in accordance with federal law and regulations issued by the U.S. Office of Personnel Management;

"(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) Performance ratings documented and approved which recognize outstanding performance shall serve to increase the employee's service for reduction-in-force purposes by 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 unacceptable performance ratings are not entitled to compete for retention.

"(c) For purposes of this title, each employee who is a bona fide resident of the District of Columbia shall have 3 years added to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government effective October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(d) A reduction-in-force action may not be taken until the employee has been afforded at least 15 days advance notice of such an action. The notification required by this subsection must be in writing and must include information pertaining to the employee's retention standing and appeal rights.

"(e) Notwithstanding any other provision of law, the Board of Education shall not require or permit non-school-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.

**"Sec. 2403. Responsibility**

Note, Section  
1-625.3

"The appropriate personnel authority shall be responsible for making a final determination that a reduction in force is necessary and for ensuring that the provisions of this title and rules and regulations issued pursuant to this title are applied when effecting a reduction-in-force within their respective agency.

**"Sec. 2404. Appeals**

Note, Section  
1-625.4

"An employee who has received a specific notice that he or she has been identified for separation from his or her 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 incorrectly applied the provisions of this title or the rules and regulations issued pursuant to this title. An



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appeal must be filed no later than 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.

(2) Sections 2405 and 2406 are repealed.

(3) A new section 2407 is added to read as follows:

**"Sec. 2407. Severance pay**

"An employee separated pursuant to this title shall be entitled to severance pay in accordance with title XI, except as provided in this section.

"(1) Additional service credit shall be applied as follows:

"(A) Four years for an employee who qualifies for veterans preference; and  
"(B) Three years for an employee who qualifies for District residency preference.

"(2) The total severance pay received over an employee's career in the District government shall not exceed 26 weeks of pay at the rate received immediately before separation."

(y) Section 2901(d) (D.C. Code § 1-630.1(d)) is amended to read as follows:

"(d) A decision by the Mayor to deny a waiver of the government's claim for erroneous employee payment shall be the final administrative decision of the District government."

(z) Section 3106 (D.C. Code § 1-632.6) is repealed.

(aa) Section 3401 (D.C. Code § 1-635.1) is repealed.

Note, Sections  
1-625.5 -  
1-625.6

Note,  
New Section  
1-625.7

Note, Section  
1-630.1

Section  
1-632.6  
Section  
1-635.1

### TITLE II. - Conforming Amendments.

Sec. 201. The District of Columbia Police and Firemen's Salary Act of 1958, approved August 1, 1958 (72 Stat. 481; D.C. Code § 4-406 *et seq.*), is amended by adding a new section 506a to read as follows:

"Sec. 506a. (a) The Council of the District of Columbia is authorized to change or suspend by resolution the provisions of sections 101, 201, 202, 203, 301, 302, 303, 304, 305, 401, 501, and 503 of this act insofar as they relate to officers and members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department.

"(b) The Council's authority to act pursuant to subsection (a) of this section shall be effective beginning on January 1, 1980."

New Section  
4-419.1

Sec. 202. The Table of Contents of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended as follows:

(1) By inserting, after the phrase "Sec. 909. APPOINTMENT OF ATTORNEYS", a new phrase to read as follows:

"IX-A. MANAGEMENT SUPERVISORY SERVICE

"SEC. 911. ESTABLISHMENT

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- "SEC. 912. COMPOSITION
- "SEC. 913. COMPETITIVE APPOINTMENTS
- "SEC. 914. EMPLOYMENT-AT-WILL
- "SEC. 915. MANAGEMENT SUPERVISORY SERVICE SKILLS MAINTENANCE AND ENHANCEMENT
- "SEC. 916. PAY FOR MANAGEMENT SUPERVISORY SERVICE
- "SEC. 917. RESIDENCY PREFERENCE
- "SEC. 918. TRANSITION PROVISIONS";
  - (2) By striking the phrase "X. EXECUTIVE SERVICE" and adding a new phrase in its place to read as follows:  
"X. EXECUTIVE SERVICE
    - "SEC. 1001. POLICY
    - "SEC. 1002. EXECUTIVE SERVICE PAY SCHEDULE
    - "SEC. 1003. EXECUTIVE SERVICE PAY PLAN
    - "SEC. 1004. INCUMBENTS
    - "SEC. 1005. REASONABLE PRE-EMPLOYMENT TRAVEL AND RELOCATION EXPENSES AND TEMPORARY HOUSING ALLOWANCE
    - "SEC. 1006. ADDITIONAL INCOME ALLOWANCE
    - "SEC. 1007. HIRING AND PERFORMANCE INCENTIVES
    - "SEC. 1008. SEPARATION PAY
    - "SEC. 1009. DISTRICT RESIDENCY
    - "SEC. 1010. SUBSEQUENT APPOINTMENTS
    - "SEC. 1011. PERSONAL LEAVE
    - "SEC. 1012. RETIREMENT BENEFITS
    - "SEC. 1013. LIFE INSURANCE BENEFITS";
  - (3) By inserting after "Title XII a new section heading to read as follows:  
"XIIIA. PERFORMANCE MANAGEMENT
    - "SEC. 1351. PERFORMANCE MANAGEMENT SYSTEM ESTABLISHED
    - "SEC. 1352. PERFORMANCE MANAGEMENT SYSTEM
    - "SEC. 1353. TRANSITION PROVISIONS.
  - (4) By striking the phrase "XVI. ADVERSE ACTIONS AND GRIEVANCES" and inserting a new phrase in its place to read as follows:  
"XVI. GENERAL DISCIPLINE AND GRIEVANCES
    - "SEC. 1651. POLICY
    - "SEC. 1652. DISCIPLINARY GRIEVANCES AND APPEALS
    - "SEC. 1653. GRIEVANCES
    - "SEC. 1654. ADMINISTRATIVE LEAVE; ENFORCED LEAVE";



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(4) By striking the phrase "XXIV. REDUCTIONS-IN-FORCE" and inserting a new phrase in its place to read as follows:

**"XXIV. REDUCTIONS IN FORCE**

- "SEC. 2401. POLICY**
- "SEC. 2402. PROCEDURES**
- "SEC. 2403. RESPONSIBILITY**
- "SEC. 2404. APPEALS**
- "SEC. 2405. SEVERANCE PAY".**

**TITLE III. - Rule of Construction.**

Sec. 301. Nothing in this act shall be construed as superseding the provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 712), except that section 11105(b)(3) of the Act is expressly superseded. Further, nothing in this act shall be construed as superseding the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97, D.C. Code § 47-391.1 *et seq.*) or of section 164 of the District of Columbia Appropriations Act, 1998, approved November 19, 1997 (Public Law 105-100; 111 Stat. 2160).

**Note, Sections**  
1-602.7,  
1-610.51,  
1-611.51,  
1-612.21,  
1-613.3a,  
1-614.51,  
1-617.51,  
1-620.3,  
1-621.51,  
1-623.15,  
4-419.1

**TITLE IV. - Applicability.**

Sec. 401. (a) Section 101(d), (h), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (w), and (y) of this act shall apply upon the enactment of legislation by the United States Congress that states the following:

"Notwithstanding any other law, section 101(d), (h), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (w), and (y) of the Omnibus Personnel Reform Act of 1998, adopted by the Council of the District of Columbia is enacted into law."

(b) Section 101(o) of this act shall apply upon the enactment by the United States Congress of an amendment to 29 U.S.C. § 207 of the Fair Labor Standards Act to exempt the District of Columbia government from the applicability of the overtime provisions when employees are on a compressed work schedule up to 80 hours per pay period.

**Note, Sections**  
1-606.3,  
1-606.4,  
1-606.6,  
1-610.3,  
1-610.9,  
1-611.1,  
1-611.2,  
1-612.2,  
1-612.3,  
1-612.7,  
1-612.9,  
1-612.11,  
1-612.20,  
1-613.1,  
1-613.3,  
1-613.5,  
1-613.6,  
1-615.1,  
1-614.1,  
1-617.1,  
1-617.3,  
1-618.17,  
1-620.1,  
1-620.2,  
1-625.1 -  
1-625.6

**TITLE V. - Fiscal Impact.**

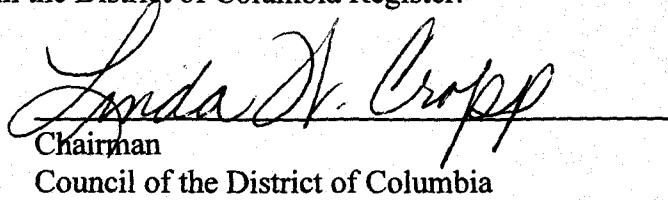
Sec. 501. The Council adopts the fiscal impact statement accompanying the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).



**RE-ENROLLED ORIGINAL**

**TITLE VI. - Effective Date.**

Sec. 601. 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), approval by the District of Columbia Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Linda W. Cropp  
Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia



## COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

## RECORD OF OFFICIAL COUNCIL VOTE

B12-44

Docket No.

1 1 ITEM ON CONSENT CALENDAR

IX ACTION &amp; DATE

ADOPTED FIRST READING, 2-3-98

X VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

THOMAS

1 1 ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

*Dugli Jim*

CERTIFICATION RECORD

Secretary to the Council

*March 18, 1998*

Date

1 1 ITEM ON CONSENT CALENDAR

IX ACTION &amp; DATE

ADOPTED FINAL READING, 3-17-98

X VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

CHAVOUS AND MASON

1 1 ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

*Dugli Jim*

CERTIFICATION RECORD

Secretary to the Council

*March 18, 1998*

Date

1 1 ITEM ON CONSENT CALENDAR

1 1 ACTION &amp; DATE

1 1 VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

1 1 ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date