Public Law 102-382
102d Congress

An Act

Oct. 5, 1992
[H.R. 6056]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1993, and for other purposes, namely:

District of Columbia Appropriations Act, 1993.

TITLE I

FISCAL YEAR 1993 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1993, $624,854,400, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $5,514,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 1–1803).

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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TRAUMA CARE FUND

For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: *Provided,* That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: *Provided further,* That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: *Provided further,* That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,591,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That $10,200,000 of the revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be available for the Mayor's youth and crime initiative, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $10,292,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

Reports.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $102,888,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec.

45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $945,551,000, together with $1,523,000 to be derived by transfer from the object classes providing personal services under the appropriation heading "Governmental Direction and Support": *Provided,* That the Metropolitan Police Department shall maintain a force of not less than 4,889 officers and members: *Provided further,* That $188,200,000 shall be allocated for the Police Officers and Fire Fighters' Retirement Fund and $4,300,000 shall be allocated for the Judges' Retirement Fund: *Provided further,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or Emergency Ambulance Division to an unfunded or unauthorized position

Reports.

with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protection Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1993, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Fire Fighting Division of the Department: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall

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Virginia.

be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $713,592,000, to be allocated as follows: $513,552,000 for the public schools of the District of Columbia, of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for the continued implementation of the urban model demonstration initiative in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000); $98,800,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $71,995,000 for the University of the District of Columbia, of which $2,000,000 shall be derived from revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992"; $20,978,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,500,000 for the District of Columbia School of Law; and $240,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1993, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $886,777,000: *Provided,* That $19,015,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $227,622,000: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,250,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $291,299,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,342,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1–1803), $5,514,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,682,000.

TRAUMA CARE FUND

For the purpose of establishing the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: *Provided,* That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: *Provided further,* That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: *Provided further,* That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.

FURLOUGH ADJUSTMENT

Each agency, office, and instrumentality of the District, except the District of Columbia Courts, shall furlough each employee of the respective agency, office, or instrumentality for one day in each month of the fiscal year ending September 30, 1993, or a proportional number of hours for part-time employees. The personal services spending authority for each agency, office, and instrumentality subject to this section is reduced in an amount equal to the savings resulting from the employee furloughs required by this section, for a total reduction of $36,000,000. The Council shall enact legislation to implement this section which may include but shall not be limited to procedures to ensure that public health and safety functions are carried out.

WITHIN-GRADE SALARY ADJUSTMENTS

Notwithstanding any other provision of law, no employee of any agency, office, or instrumentality of the District shall receive within-grade salary increases during the fiscal year ending September 30, 1993, and no time during the fiscal year ending September 30, 1993 shall accrue toward the waiting period for advancement to the following rate within the grade. The spending authority for each agency, office and instrumentality is reduced in an amount equal to the savings resulting from the adjustments required by this section, for a total reduction of $13,000,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $393,639,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $13,779,000 shall be available for project management and $12,749,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1994, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1994: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $251,630,000, of which $39,602,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects, and $12,200,000 collected as payment in lieu of taxes pursuant to the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be transferred to the general fund to provide $10,200,000 for the Mayor's youth and crime initiative, and $2,000,000 for the University of the District of Columbia.

For construction projects, $45,908,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided,* That the

requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That not to exceed $22,705,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,500,000.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.), of which $1,847,000 shall be transferred to the general fund: *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

GENERAL PROVISIONS

Public information.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall

be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

District of Columbia budget.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1994, shall be transmitted to the Congress no later than April 15, 1993.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Gen-

eral Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion.

SEC. 114. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Reports.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

Wages.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public

Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1992 shall be deemed to be the rate of pay payable for that position for September 30, 1992.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report. Reports.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93–198; D.C. Code, sec. 47–326), as amended, is amended by striking "sold before October 1, 1992" and inserting "sold before October 1, 1993".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determina-

tion as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1992, of the required reorganization plans, including but not limited to: the Office of Tourism, the Office of Banking and Financial Institutions, and the transfer of the functions of the Unclaimed Property Unit within the Department of Finance and Revenue to the Office of the Controller.

Sequestration.

SEC. 128. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

Sequestration.

SEC. 129. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

103 Stat. 1280.

SEC. 130. Section 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1992" and inserting "December 31, 1993".

Prisoners.
Housing.

SEC. 131. For the fiscal year ending September 30, 1993, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the

District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113 (d)).

SEC. 133. None of the funds made available in this Act may be used by the District of Columbia to operate, after June 1, 1993, the juvenile detention facility known as the Cedar Knoll Facility. The Mayor shall transmit a plan and timetable for closing the Cedar Knoll Facility to the Committees on Appropriations of the House of Representatives and the Senate by January 15, 1993.

Children and youth. Law enforcement and crime.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1993 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

Records. Public information.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 135. (a) None of the funds appropriated by this Act may be used to issue or renew a registration certificate or identification tag for any motor vehicle if unpaid fines, penalities and other costs for traffic violations in the District of Columbia are outstanding against any registered owner of such vehicle or against any authorized user of any vehicle of such registered owner.

(b) Subsection (a) shall not apply to an issuance or renewal if the Director of the Department of Public Works of the District of Columbia—

(1) determines that special circumstances require a waiver of such subsection with respect to such issuance or renewal;

(2) issues such waiver in writing, setting forth such circumstances; and

(3) submits a written notification of such waiver and circumstances to the Committees on Appropriations of the House of Representatives and the Senate and to the governmental agency having authority to approve such issuance or renewal.

SEC. 136. None of the funds made available in this Act may be used by the District of Columbia to impose, implement, collect, administer, transfer, or enforce a payment in lieu of taxes on the Water and Sewer Utility Administration that would increase payments required of suburban jurisdictions in Maryland or Virginia under the Blue Plains Intermunicipal Agreement of 1985.

SEC. 137. (a) LEGAL DOMICILE.—The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (referred to as "the Act"), is amended by adding at the end thereof the following: "The District of Columbia shall be the legal domicile of the corporation.".

Corporations.

53 Stat. 1412.

(b) REGULATORY AUTHORITY.—

53 Stat. 1413.

(1) IN GENERAL.—Section 5 of the Act is amended to read as follows:

"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".

53 Stat. 1414.

(2) REPEAL.—The Act is amended by striking section 7.

(c) REIMBURSEMENT OF REGULATORY COSTS BY THE CORPORATION.—The Act (as amended by section (b) of this Act) is amended by inserting after section 6 the following new section:

"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market conduct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and expire on September 30, 1993, or upon the enactment of specific authorizing legislation.

Law enforcement and crime.

SEC. 138. Notwithstanding any other law, the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special, or primary election to be held within 90 days after the date of enactment of this Act, the following initiative:

Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

SHORT TITLE

Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole.

LEGISLATIVE TEXT

The legislative text of the initiative shall read as follows:

Be it enacted by the Electors of the District of Columbia, that this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia".

"Section 801 of the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901 (D.C. Code 22–2404(a)), is amended—

56 Stat. 1690.

"(1) by amending subsection (a) to read as follows:

"'(a) The punishment of murder in the first degree shall be life imprisonment without the possibility of parole, or death.';

"(2) by striking subsection (b) and redesignating subsection (c) as subsection (b); and

"(3) by adding at the end the following new subsections:

"'(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"'(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any

circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"'(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"'(2) DURESS.—The defendant was under unusual and substantial duress.

"'(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 908 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–105)) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"'(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

"'(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"'(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnapping, or arson.

"'(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"'(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in paragraph (6) of D.C. Law 1–85 (D.C. Code 6–2302(6))).

"'(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"'(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"'(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"'(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"'(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"'(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"'(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"'(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"'(A) while the public servant was engaged in the performance of his or her official duties;

"'(B) because of the performance of the public servant's official duties; or

"'(C) because of the public servant's status as a public servant.

"'(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"'(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"'(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"'(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless

of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"'(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"'(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"'(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"'(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment without the possibility of parole. Courts.

"'(m) REVIEW OF A SENTENCE OF DEATH.—

"'(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

Courts.

"'(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

Courts.

"'(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"'(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"'(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"'(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of the District of Columbia government, and no person providing services to the government under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participate in any execution" includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"'(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11–2601 et seq.), and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11–2601 et seq.) shall apply to appointments under this section.

"'(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation. Courts.

"'(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"'(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 23–110 of the District of Columbia Code in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding.

This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"'(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 23–110 of the District of Columbia Code attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"'(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 23–110 of the District of Columbia Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"'(1) the defendant fails to file a motion under section 23–110 of the District of Columbia Code within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"'(2) upon completion of district court and court of appeals review under section 23–110 of the District of Columbia Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"'(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 23–110 of the District of Columbia Code.

"'(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"'(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"'(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"'(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"'(x) COMMUTATION OF SENTENCE OF DEATH.—The Mayor shall have power to commute a sentence of death under this section to a sentence of life imprisonment, without parole.

"'(y) DEFINITIONS.—For purposes of this section—

"'(1) "State" includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States;

"'(2) "offense", as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"'(3) "drug trafficking activity" means a felony punishable under D.C. Law 4–29 (D.C. Code 33–501 et seq.) or a pattern or series of acts involving one or more such felonies;

"'(4) "robbery" means obtaining the property of another by force or threat of force;

"'(5) "burglary" means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"'(6) "sexual abuse" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"'(7) "arson" means damaging or destroying a building or structure through the use of fire or explosives;

"'(8) "kidnapping" means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"'(9) "pre-trial release", "probation", "parole", "supervised release", and "other post-conviction conditional release", as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"'(10) "public servant" means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of title 18, United States Code.'.".

This title may be cited as the "District of Columbia Appropriations Act, 1993".

TITLE II

District of Columbia Supplemental Appropriations and Rescissions Act, 1992.

FISCAL YEAR 1992 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,177,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 560), $5,427,000 are rescinded for a net decrease of $2,250,000: *Provided further,* That of the remaining funds, $1,724,000 shall be for the Mayor's youth and crime initiative in the City Administrator's Office, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds, and $476,000 shall be for the Office of Personnel to conduct a management audit of personal and nonpersonal services: *Provided further,* That notwithstanding any other provision of law, there is hereby

appropriated from the earnings of the applicable retirement funds an additional $1,694,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $6,361,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $5,094,000 are rescinded for a net increase of $1,267,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $114,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $22,356,000 are rescinded for a net decrease of $22,242,000: *Provided further,* That of the funds remaining for the personal services of the Metropolitan Police Department, $1,000,000 shall be redirected to non-personal services of the Department for equipment purchases and contractual services: *Provided further,* That not to exceed $700,000 shall be available from this appropriation, and funds under this heading in Public Law 102–111 (105 Stat. 561) for the Chief of Police for the prevention and detection of crime.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $300,000, of which $260,000 is for the public schools of the District of Columbia and $40,000 is for pay-as-you-go capital projects for the public schools: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 563), $48,000 for the Education Licensure Commission are rescinded for a net increase of $252,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,565,000: *Provided,* That $2,196,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law

102–111; 105 Stat. 564), $3,405,000 are rescinded for a net increase of $42,160,000.

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $31,308,000 are rescinded.

WASHINGTON CONVENTION CENTER FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $560,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $2,544,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $2,245,000.

RESIZING

For the purpose of funding costs associated with the Temporary Appeals Board, downsizing, and early-outs, $5,510,000, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,667,000.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $11,000,000, to remain available until expended: *Provided,* That of the amounts appropriated under this heading in prior fiscal years for the Law School Facility, $10,000,000 are rescinded for a net increase of $1,000,000: *Provided further,* That $150,000 shall be available for project management and $285,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $62,327,000, of which $28,287,000 shall be transferred to the general fund to finance general fund operating expenses: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566), $35,820,000 are rescinded for a net increase of $26,507,000: *Provided further,* That $38,834,000 of the amounts available for fiscal year 1992 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $38,006,000 as provided under this heading in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566).

The following provision under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566) is repealed ": *Provided further,* That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects".

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300); D.C. Code, sec. 2–321 et seq.), of which $584,000 shall be transferred to the general fund.

GENERAL PROVISIONS

SEC. 201. Section 134 of the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (105 Stat. 571) is amended by inserting after subsection (c) the following new subsection:

"(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.".

SEC. 202. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1992.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1992".

Approved October 5, 1992.

LEGISLATIVE HISTORY—H.R. 6056:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House and Senate.