

*Public Law 105-33
105th Congress

An Act

To provide for reconciliation pursuant to subsections (b)(1) and (c) of section 105
of the concurrent resolution on the budget for fiscal year 1998.

Aug. 5, 1997
[H.R. 2015]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Balanced Budget
Act of 1997.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1997".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Food Stamp Provisions
Title II—Housing and Related Provisions
Title III—Communications and Spectrum Allocation Provisions
Title IV—Medicare, Medicaid, and Children's Health Provisions
Title V—Welfare and Related Provisions
Title VI—Education and Related Provisions
Title VII—Civil Service Retirement and Related Provisions
Title VIII—Veterans and Related Provisions
Title IX—Asset Sales, User Fees, and Miscellaneous Provisions
Title X—Budget Enforcement and Process Provisions
Title XI—District of Columbia Revitalization

National Capital
Revitalization
and
Self-Government
Improvement Act
of 1997.

**TITLE XI—DISTRICT OF COLUMBIA
REVITALIZATION**

SECTION 11000. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This title may be cited as the "National Capital Revitalization and Self-Government Improvement Act of 1997".

(b) **TABLE OF CONTENTS.**—The table of contents of this title is as follows:

Sec. 11000. Short title; table of contents.

Subtitle A—District of Columbia Retirement Funds

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

Sec. 11001. Short title.

Sec. 11002. Findings and declaration of policy.

Sec. 11003. Definitions.

CHAPTER 2—FEDERAL BENEFIT PAYMENTS UNDER DISTRICT RETIREMENT PROGRAMS

Sec. 11011. Obligation of Federal government to make benefit payments.

Sec. 11012. Federal benefit payments described.

Sec. 11013. Establishment of single annual cost-of-living adjustment under District Retirement Program.

CHAPTER 3—DETERMINATIONS AND REVIEW OF ELIGIBILITY AND PAYMENTS;
INFORMATION SHARING

- Sec. 11021. Determination of eligibility for and amount of Federal benefit payments made by Trustee.
 Sec. 11022. Procedures for resolving claims arising from denied benefit payments.
 Sec. 11023. Transfer of and access to records of District Government.
 Sec. 11024. Federal information sharing for verification of benefit determinations.

CHAPTER 4—DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND

- Sec. 11031. Creation of Trust Fund.
 Sec. 11032. Uses of amounts in Trust Fund.
 Sec. 11033. Transfer of assets and obligations of District Retirement Funds.
 Sec. 11034. Treatment of Trust Fund under certain laws.
 Sec. 11035. Administration through Trustee.

CHAPTER 5—RESPONSIBILITIES OF DISTRICT GOVERNMENT

- Sec. 11041. Interim administration.
 Sec. 11042. Replacement plan.

CHAPTER 6—FINANCING OF BENEFIT PAYMENTS AFTER DEPLETION OF TRUST FUND

- Sec. 11051. Creation of Federal Supplemental Fund.
 Sec. 11052. Uses of amounts in Fund.
 Sec. 11053. Determination of annual payment into Federal Supplemental Fund.
 Sec. 11054. Determination of methodology for making payments.
 Sec. 11055. Special requirements upon discontinuation of Trust Fund.

CHAPTER 7—REPORTS

- Sec. 11061. Annual valuations and reports by enrolled actuary.
 Sec. 11062. Reports by Comptroller General.

CHAPTER 8—JUDICIAL ENFORCEMENT

- Sec. 11071. Judicial review.
 Sec. 11072. Jurisdiction and venue.
 Sec. 11073. Statute of limitations.
 Sec. 11074. Treatment of misappropriation of fund amounts as Federal crime.

CHAPTER 9—MISCELLANEOUS

- Sec. 11081. Coordination between Secretary, Trustee, and District Government.
 Sec. 11082. Study of alternatives for financing Federal obligations.
 Sec. 11083. Issuance of regulations by Secretary.
 Sec. 11084. Effect on Reform Act and other laws.
 Sec. 11085. Reference to new Federal program for retirement of judges of District of Columbia courts.
 Sec. 11086. Full faith and credit.
 Sec. 11087. Severability of provisions.

Subtitle A—District of Columbia Retirement Funds

District of
Columbia
Retirement
Protection Act of
1997.

CHAPTER 1—SHORT TITLE; FINDINGS; DEFINITIONS

SEC. 11001. SHORT TITLE.

This subtitle may be cited as the “District of Columbia Retirement Protection Act of 1997”.

SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

- (1) State and municipal retirement programs should be funded on an actuarially sound basis;
- (2) the retirement programs for the police officers and firefighters, teachers and judges of the District of Columbia had significant unfunded liabilities totaling approximately \$1,900,000,000 when the Federal government transferred those programs to the District of Columbia, and those liabilities have since increased to nearly \$4,800,000,000, an increase which is almost entirely attributable to the accumulation of interest on the value which existed at the time of transfer;
- (3) the District of Columbia has fully met its financial obligations under the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122);
- (4) the growth of the unfunded liabilities of the three pension funds listed above did not occur because of any action

taken or any failure to act that lay within the power of the District of Columbia government or the District of Columbia Retirement Board;

(5) the presence of the unfunded pension liability is having and will continue to have a negative impact on the District of Columbia's credit rating as it is a legal obligation and the total unfunded liability exceeds the total General Obligation debt of the District, and the costs associated with this liability are a contributing cause of the District's ongoing financial crisis;

(6) the obligations of the District associated with these pension programs in fiscal year 1997 represents nearly 10 percent of the District's revenue;

(7) the annual Federal contribution toward these costs under the District of Columbia Retirement Reform Act has remained \$52,000,000;

(8) if the unfunded pension liability situation is not resolved, in 2004 the District of Columbia would be responsible for annual costs exceeding \$800,000,000, a figure which would be impossible to meet without catastrophic impact on the District government's resources and programs;

(9) the financial resources of the District of Columbia are not adequate to discharge the unfunded liabilities of the retirement programs; and

(10) the level of benefits and funding of the current retirement programs were authorized by various Acts of Congress.

(b) POLICY.—It is the policy of this subtitle—

(1) to relieve the District of Columbia government of the responsibility for the unfunded pension liabilities transferred to it by the Federal government;

(2) for the Federal government to assume the legal responsibility for paying certain pension benefits (including certain unfunded pension liabilities which existed as of the day prior to introduction of this legislation) for the retirement plans of teachers, police, and firefighters;

(3) to provide for a responsible Federal system for payment of benefits accrued prior to the date of introduction of this legislation; and

(4) to require the establishment of replacement plans by the District of Columbia government for the current retirement plans for teachers, and police and firefighters.

SEC. 11003. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "contract" means the contract under section 11035 between the Secretary and the Trustee.

(2) The term "covered District employee" means a teacher of the District of Columbia public schools, or a member of the Metropolitan Police Force or the Fire Department of the District of Columbia, as defined under the District Retirement Program.

(3) The term "District Government" means any entity treated as part of the District government under section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, including the District

of Columbia Retirement Board (as defined in section 102(5) of the Reform Act).

(4) The term "District Retirement Fund" means the District of Columbia Police Officers and Fire Fighters Retirement Fund and the District of Columbia Teachers Retirement Fund, as defined in the Reform Act.

(5) The term "District Retirement Program" means any of the retirement programs for teachers and members of the Metropolitan Police Force and Fire Department, as described in section 102(7) of the Reform Act as in effect on the day before the freeze date (except as amended by section 11013).

(6) The term "enrolled actuary" means the enrolled actuary engaged by the Trustee under section 11061(a).

(7) The term "Federal benefit payment" means a payment described in section 11012.

(8) The term "Federal Supplemental Fund" means the Federal Supplemental District of Columbia Pension Fund created under section 11051.

(9) The term "freeze date" means June 30, 1997.

(10) The term "person" means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

(11) The term "Reform Act" means the District of Columbia Retirement Reform Act (Public Law 96-122).

(12) The term "replacement plan" means the plan described in section 11042.

(13) The term "replacement plan adoption date" means the date upon which the legislation establishing the replacement plan becomes effective, or the first day after the expiration of the 1-year period which begins on the date of the enactment of this Act, whichever occurs first.

(14) The term "Trust Fund" means the District of Columbia Federal Pension Liability Trust Fund established under section 11031.

(15) The term "Secretary" means the Secretary of the Treasury or the Secretary's designee.

(16) The term "Trustee" means the person or persons selected by the Secretary under section 11035.

CHAPTER 2—FEDERAL BENEFIT PAYMENTS UNDER DISTRICT RETIREMENT PROGRAMS

SEC. 11011. OBLIGATION OF FEDERAL GOVERNMENT TO MAKE BENEFIT PAYMENTS.

(a) **IN GENERAL.**—In accordance with the provisions of this subtitle, the Federal Government shall make Federal benefit payments associated with the pension plans for police officers, firefighters, and teachers of the District of Columbia.

(b) **NO REVERSION OF FEDERAL RESPONSIBILITY TO DISTRICT.**—At no point after the effective date of this subtitle may the responsibility or any part thereof assigned to the Federal Government under subsection (a) for making Federal benefit payments revert to the District of Columbia.

SEC. 11012. FEDERAL BENEFIT PAYMENTS DESCRIBED.

(a) **IN GENERAL.**—Subject to the succeeding provisions of this subtitle, a “Federal benefit payment” is any benefit payment to which an individual is entitled under a District Retirement Program, in such amount and under such terms and conditions as may apply under such Program.

(b) **TREATMENT OF SERVICE OCCURRING AFTER FREEZE DATE.**—Service after the freeze date shall not be credited for purposes of determining the amount of any Federal benefit payment. Nothing in this subsection shall be construed to affect the crediting of such service for any other purpose under the District Retirement Program.

(c) **SPECIAL RULE REGARDING DISABILITY BENEFITS.**—To the extent that any portion of a benefit payment to which an individual is entitled under a District Retirement Program is based on a determination of disability made by the District of Columbia Retirement Board or the Trustee after the freeze date, the Federal benefit payment determined with respect to the individual shall be an amount equal to the deferred retirement benefit or normal retirement benefit the individual would receive if the individual left service on the day before the commencement of disability retirement benefits.

(d) **SPECIAL RULE REGARDING CERTAIN DEATH BENEFITS.**—

(1) **IN GENERAL.**—In the case of a benefit payment to which an individual is entitled under a District Retirement Program which is payable on the death of a covered District employee or former covered District employee and which is not determined by the length of service of the employee or former employee, the Federal benefit payment determined with respect to the individual shall be equal to the pre-freeze date percentage of the amount otherwise payable.

(2) **PRE-FREEZE DATE PERCENTAGE DEFINED.**—In paragraph (1), the “pre-freeze date percentage” with respect to a covered District employee or former covered District employee is the amount (expressed as a percentage) equal to the quotient of—

(A) the number of months of the covered District employee’s or former covered District employee’s service prior to the freeze date; divided by

(B) the total number of months of the covered District employee’s or former covered District employee’s service.

SEC. 11013. ESTABLISHMENT OF SINGLE ANNUAL COST-OF-LIVING ADJUSTMENT UNDER DISTRICT RETIREMENT PROGRAM.

(a) **PROGRAM FOR POLICE AND FIRE FIGHTERS.**—Subsection (m) of the Policemen and Firemen’s Retirement and Disability Act (DC Code, sec. 4-624) is amended—

(1) in paragraph (2), by striking “the Mayor shall” and all that follows and inserting the following: “on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.”; and

(2) by amending paragraph (3) to read as follows:

“(3)(A) If (in accordance with paragraph (2)) the Mayor determines in a year (beginning with 1999) that the per centum change

in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to—

“(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (2), adjusted to the nearest $\frac{1}{10}$ of 1 per centum; or

“(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of—

“(I) $\frac{1}{12}$ of the per centum change computed under paragraph (2), multiplied by

“(II) the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase,

adjusted to the nearest $\frac{1}{10}$ of 1 per centum.

“(B) On January 1, 1998 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998—

“(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; and

“(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of—

“(I) $\frac{1}{6}$ of such per centum change, multiplied by

“(II) the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase,

adjusted to the nearest $\frac{1}{10}$ of 1 per centum.”

(b) PROGRAM FOR TEACHERS.—Section 21(b) of the Act entitled “An Act for the retirement of public-school teachers in the District of Columbia”, approved August 7, 1946 (DC Code, sec. 31-1241(b)) is amended—

(1) in paragraph (1), by striking “The Mayor shall—” and all that follows and inserting the following: “On January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.”; and

(2) by amending paragraph (2) to read as follows:

“(2)(A) If (in accordance with paragraph (1)) the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to—

“(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum

change computed under paragraph (1), adjusted to the nearest $\frac{1}{10}$ of 1 per centum; or

“(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of—

“(I) $\frac{1}{12}$ of the per centum change computed under paragraph (1), multiplied by

“(II) the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase,

adjusted to the nearest $\frac{1}{10}$ of 1 per centum.

“(B) On January 1, 1998 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998—

“(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; and

“(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of—

“(I) $\frac{1}{6}$ of such per centum change, multiplied by

“(II) the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase,

adjusted to the nearest $\frac{1}{10}$ of 1 per centum.”.

CHAPTER 3—DETERMINATIONS AND REVIEW OF ELIGIBILITY AND PAYMENTS; INFORMATION SHARING

SEC. 11021. DETERMINATION OF ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT PAYMENTS MADE BY TRUSTEE.

Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Trustee—

(1) shall determine whether an individual is eligible to receive a Federal benefit payment under this subtitle;

(2) shall determine the amount and form of an individual's Federal benefit payment under this subtitle; and

(3) may recoup or recover any amounts paid under this subtitle as a result of errors or omissions by the Trustee, the District Government, or any other person.

SEC. 11022. PROCEDURES FOR RESOLVING CLAIMS ARISING FROM DENIED BENEFIT PAYMENTS.

(a) REQUIRING NOTICE AND OPPORTUNITY FOR REVIEW.—In accordance with procedures approved by the Secretary, the Trustee shall provide to any individual whose claim for a Federal benefit payment under this subtitle has been denied in whole or in part—

(1) adequate written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average participant in the District Retirement Program; and

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

(b) **STANDARD FOR REVIEW.**—Any factual determination made by the Trustee shall be presumed correct unless rebutted by clear and convincing evidence. The Trustee's interpretation and construction of the benefit provisions of the District Retirement Program and this subtitle shall be entitled to great deference.

SEC. 11023. TRANSFER OF AND ACCESS TO RECORDS OF DISTRICT GOVERNMENT.

(a) **IN GENERAL.**—Within 30 days after the Secretary or the Trustee requests, the District Government shall furnish copies of all records, documents, information, or data the Secretary or the Trustee deems necessary to carry out responsibilities under this subtitle and the contract. Upon request, the District Government shall grant the Secretary or the Trustee direct access to such information systems, records, documents, information or data as the Secretary or Trustee requires to carry out responsibilities under this subtitle or the contract.

(b) **REPAYMENT BY DISTRICT GOVERNMENT.**—The District Government shall reimburse the Trust Fund for all costs, including benefit costs, that are attributable to errors or omissions in the transferred records that are identified within 3 years after such records are transferred.

SEC. 11024. FEDERAL INFORMATION SHARING FOR VERIFICATION OF BENEFIT DETERMINATIONS.

(a) **IN GENERAL.**—Except with respect to taxpayer returns and return information subject to section 6103 of the Internal Revenue Code of 1986, the Secretary may—

(1) secure directly from any department or agency of the United States information necessary to enable the Secretary to verify or confirm benefit determinations under this subtitle; and

(2) by regulation authorize the Trustee to review such information for purposes of administering this subtitle and the contract.

(b) **AMENDMENTS TO INTERNAL REVENUE CODE.**—The Internal Revenue Code of 1986 is amended as follows:

(1) In section 6103(l), as amended by section 1206(a) of the Taxpayer Bill of Rights 2, by adding at the end the following new paragraph: 26 USC 6103.

“(16) **DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF ADMINISTERING THE DISTRICT OF COLUMBIA RETIREMENT PROTECTION ACT OF 1997.**—

“(A) **IN GENERAL.**—Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social

Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

“(B) DISCLOSURE FOR USE IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.”.

26 USC 6103.

(2) In section 6103(a)(3), by striking “(6) or (12)” and inserting “(6), (12), or (16)”;

(3) In section 6103(i)(7)(B)(i), by inserting after “(other than an agency referred to in subparagraph (A))” and before the word “for” the words “or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997.”.

(4) In section 6103(p)(3)(A), by striking “or (15)” and inserting “(15), or (16)”.

(5) In section 6103(p)(4) in the matter preceding subparagraph (A), by striking “or (12)” and inserting “(12), or (16), or any other person described in subsection (l)(16)”.

(6) In section 6103(p)(4)(F)(i), by striking “or (9),” and inserting “(9), or (16), or any other person described in subsection (l)(16)”.

(7) In section 6103(p)(4)(F) in the matter following clause (iii)—

(A) by inserting after “any such agency, body or commission” and before the words “for the General Accounting Office” the words “, including an agency or any other person described in subsection (l)(16),”;

(B) by striking “to such agency, body, or commission” and inserting “to such agency, body, or commission, including an agency or any other person described in subsection (l)(16),”;

(C) by striking “or (12)(B)” and inserting “, (12)(B), or (16)”;

(D) by inserting after the words “any agent,” and before the words “this paragraph shall” the words “or any person including an agent described in subsection (l)(16),”;

(E) by inserting after the words “such agent” and before “(except that” the words “or other person”; and

(F) by inserting after the words “an agent,” and before the words “any report” the words “or any person including an agent described in subsection (l)(16),”.

26 USC 7213.

(8) In section 7213(a)(2), by striking “or (15),” and inserting “(15), or (16)”.

26 USC 6103
note.

(c) CONFIDENTIALITY.—The Secretary may issue regulations governing the confidentiality of the information obtained pursuant

to subsection (a) and the provisions of law amended by subsection (b).

CHAPTER 4—DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND

SEC. 11031. CREATION OF TRUST FUND.

(a) **ESTABLISHMENT.**—There is established on the books of the Treasury the District of Columbia Federal Pension Liability Trust Fund, consisting of the assets transferred pursuant to section 11033 and any income earned on the investment of such assets pursuant to subsection (b).

(b) **INVESTMENT OF ASSETS.**—The Trustee may invest the assets of the Trust Fund in private securities and any other form of investment deemed appropriate by the Secretary.

SEC. 11032. USES OF AMOUNTS IN TRUST FUND.

(a) **IN GENERAL.**—Amounts in the Trust Fund shall be used—

(1) to make Federal benefit payments under this subtitle;

(2) subject to subsection (b), to cover the reasonable and necessary expenses of administering the Trust Fund under the contract entered into pursuant to section 11035(b); and

(3) for such other purposes as are specified in this subtitle.

(b) **SPECIAL RULES REGARDING ADMINISTRATIVE EXPENSES.**—

(1) **BUDGETING; CERTIFICATION AND APPROVAL.**—The administrative expenses of the Trust Fund shall be paid in accordance with an annual budget set forth by the Trustee which shall be subject to certification and approval by the Secretary.

(2) **USE OF DISTRICT RETIREMENT FUND FOR INTERIM ADMINISTRATION.**—The Secretary is authorized to requisition from the District Retirement Fund such sums as are necessary to administer the Trust Fund until assets are transferred to the Trust Fund pursuant to section 11033.

SEC. 11033. TRANSFER OF ASSETS AND OBLIGATIONS OF DISTRICT RETIREMENT FUNDS.

(a) **IN GENERAL.**—As of the replacement plan adoption date, all obligations to make Federal benefit payments and all assets of the District Retirement Fund as of the replacement plan adoption date (except as provided in subsections (b) and (c)) shall be transferred to the Trust Fund.

(b) **DESIGNATION OF ASSETS TO BE RETAINED BY DISTRICT RETIREMENT FUND.**—The Secretary shall designate assets with a value of \$1.275 billion that shall not be transferred from the District Retirement Fund under subsection (a). The Secretary's designation and valuation of the assets shall be final and binding.

(c) **EXCEPTION FOR CERTAIN EMPLOYEE CONTRIBUTIONS.**—

(1) **IN GENERAL.**—Subsection (a) shall not apply to assets consisting of the District Retirement Fund consisting of any employee contributions deducted and withheld after the freeze date or any interest thereon (computed at a rate and in a manner determined by the Secretary).

(2) **EMPLOYEE CONTRIBUTIONS DEFINED.**—In paragraph (1), the term “employee contributions” means amounts deducted and withheld from the salaries of covered District employees and paid to the District Retirement Fund (and, in the case of teachers, amounts of additional deposits paid to the District

Retirement Fund), pursuant to the District Retirement Program.

(d) RESPONSIBILITIES OF DISTRICT GOVERNMENT.—

(1) IN GENERAL.—The transfer of assets from the District Retirement Fund under this section shall be made in accordance with the direction of the Secretary. The District Government shall promptly take all steps, and execute all documents, that the Secretary deems necessary to effect the transfer.

(2) FINAL RECONCILIATION OF ACCOUNTS.—As soon as practicable after the replacement plan adoption date, the District Government shall furnish the Trustee a final reconciliation of accounts in connection with the transfer of assets and obligations to the Trust Fund. The allocation of assets under this section shall be adjusted in accordance with this reconciliation.

SEC. 11034. TREATMENT OF TRUST FUND UNDER CERTAIN LAWS.

(a) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986—

(1) the Trust Fund shall be treated as a trust described in section 401(a) of the Code which is exempt from taxation under section 501(a) of the Code;

(2) any transfer to or distribution from the Trust Fund shall be treated in the same manner as a transfer to or distribution from a trust described in section 401(a) of the Code; and

(3) the benefits provided by the Trust Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

(b) ERISA.—For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Trust Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

(c) APPLICATION OF CERTAIN FUTURE AMENDMENTS TO INTERNAL REVENUE CODE.—To the extent that any provision of subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 401 et seq.) is amended after the date of the enactment of this Act, such provision as amended shall apply to the Trust Fund only to the extent the Secretary determines that application of the provision as amended is consistent with the administration of this subtitle.

SEC. 11035. ADMINISTRATION THROUGH TRUSTEE.

(a) IN GENERAL.—As soon as practicable after the enactment of this subtitle, the Secretary shall select a Trustee to administer the Trust Fund and otherwise carry out the responsibilities and duties specified in this subtitle in accordance with the contract described in subsection (b).

(b) CONTRACT.—The Secretary shall enter into a contract with the Trustee to provide for the management, investment, control and auditing of Trust Fund assets, the making of Federal benefit payments under this subtitle from the Trust Fund, and such other matters as the Secretary deems appropriate. The Secretary shall enforce the provisions of the contract and otherwise monitor the administration of the Trust Fund.

(c) REPORTS.—The Trustee shall report to the Secretary, in a form and manner and at such intervals as the Secretary may prescribe, on any matters or transactions relating to the Trust Fund, including financial matters, as the Secretary may require.

CHAPTER 5—RESPONSIBILITIES OF DISTRICT GOVERNMENT**SEC. 11041. INTERIM ADMINISTRATION.**

(a) **ADMINISTRATION OF BENEFITS UNTIL APPOINTMENT OF TRUSTEE.**—Notwithstanding chapter 2, after the enactment of this subtitle the District Government shall continue to discharge its duties and responsibilities under the District Retirement Program and the District Retirement Fund (as such duties and responsibilities are modified by this subtitle), including the responsibility for Federal benefit payments, until such time as the Secretary notifies the District Government that the Secretary has directed the Trustee to carry out the duties and responsibilities required under the contract.

(b) **REIMBURSEMENT FROM TRUST FUND.**—The Trustee shall reimburse the District Government for any administrative expenses incurred by the District Government in carrying out subsection (a)—

(1) if the Trustee finds such expenses to be reasonable and necessary; and

(2) to the extent that the District Government is not reimbursed for such expenses from other sources.

(c) **MAKING DISTRICT RETIREMENT FUND WHOLE.**—The District Government shall reimburse the District Retirement Fund for any benefits paid inconsistent with this subtitle from the District Retirement Fund between the freeze date and the replacement plan adoption date.

SEC. 11042. REPLACEMENT PLAN.

(a) **ADOPTION BY DISTRICT GOVERNMENT.**—Not later than one year after the date of the enactment of this subtitle, the District Government shall adopt a replacement plan for pension benefits for covered District employees, effective as of the freeze date.

(b) **REPLACEMENT PLAN IMPOSED IF DISTRICT GOVERNMENT FAILS TO ADOPT PLAN.**—If the District Government fails to adopt a replacement plan within the period prescribed in subsection (a), the retirement program applicable to police, firefighters, and teachers under the laws of the District of Columbia in effect as of June 1, 1997 (except as otherwise amended by this Act), including all requirements of the program regarding benefits, contributions, and cost-of-living adjustments, shall be treated as the replacement plan for purposes of this subtitle.

(c) **NO PAYMENT OF AMOUNTS PAID AS FEDERAL BENEFIT PAYMENT.**—Notwithstanding any provision of the Reform Act or any other law, rule, or regulation, the District Government is not required to pay any amount under any replacement plan under this subtitle if the amount is paid as a Federal benefit payment under this subtitle.

CHAPTER 6—FINANCING OF BENEFIT PAYMENTS AFTER DEPLETION OF TRUST FUND**SEC. 11051. CREATION OF FEDERAL SUPPLEMENTAL FUND.**

(a) **ESTABLISHMENT.**—There is established on the books of the Treasury the Federal Supplemental District of Columbia Pension Fund, which shall be administered by the Secretary and shall consist of the following assets:

(1) Amounts deposited into such Fund under the provisions of this subtitle.

(2) Any amount otherwise appropriated to such Fund.

(3) Any income earned on the investment of the assets of such Fund pursuant to subsection (b).

(b) INVESTMENT OF ASSETS.—The Secretary shall invest such portion of the Federal Supplemental Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Federal Supplemental Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(c) RECORDKEEPING FOR ACTUARIAL STATUS.—The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the Federal Supplemental Fund.

SEC. 11052. USES OF AMOUNTS IN FUND.

Amounts in the Federal Supplemental Fund shall be used for the accumulation of funds in order to finance obligations of the Federal Government for benefits and necessary administrative expenses under the provisions of this subtitle, in accordance with the methodology selected by the Secretary under section 11054(b), except that payments from the Fund for administrative expenses may be made only to the extent and in such amounts as are provided in advance in appropriations acts.

SEC. 11053. DETERMINATION OF ANNUAL PAYMENT INTO FEDERAL SUPPLEMENTAL FUND.

(a) IN GENERAL.—At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury an amount equal to the sum of—

(1) the annual amortization amount for the year (which may not be less than zero); and

(2) the covered administrative expenses for the year.

(b) DETERMINATION OF AMOUNTS.—For purposes of this section:

(1) The “original unfunded liability” is the amount that is the present value as of the freeze date of future benefits payable from the Federal Supplemental Fund.

(2) The “annual amortization amount” is the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

(A) the original unfunded liability over a 30-year period;

(B) a net experience gain or loss over a 10-year period; and

(C) any other changes in actuarial liability over a 20-year period.

(3) The “covered administrative expenses” are the expenses determined by the Secretary (on an annual basis) to be necessary to administer the Federal Supplemental Fund.

(c) TIMING.—The first applicable fiscal year under subsection (a) is the first fiscal year that ends more than six months after the replacement plan adoption date.

SEC. 11054. DETERMINATION OF METHODOLOGY FOR MAKING PAYMENTS.

(a) NOTICE TO PRESIDENT AND CONGRESS.—Not later than 18 months before the time that assets remaining in the Trust Fund are projected to be insufficient for making Federal benefit payments and covering necessary administrative expenses when due, the Secretary shall so advise the President and the Congress.

(b) SELECTION OF METHODOLOGY.—Before all available assets of the Trust Fund have been depleted, the Secretary shall determine whether Federal benefit payments and necessary administrative expenses under this subtitle shall be made by one of the following methods:

(1) Continuation of the Trust Fund using payments from the Federal Supplemental Fund.

(2) Discontinuation of the Trust Fund, with payments made—

(A) by direct payment by the Secretary from the Federal Supplemental Fund; or

(B) from the Federal Supplemental Fund through another department or agency of the United States.

(c) ARRANGEMENTS BY SECRETARY.—The Secretary shall make appropriate arrangements to implement the determinations made in this subsection.

SEC. 11055. SPECIAL REQUIREMENTS UPON DISCONTINUATION OF TRUST FUND.

(a) SUCCESSOR TO TRUSTEE.—If the Secretary determines that the Trust Fund shall be discontinued after it has been depleted of assets, the Secretary shall appoint a successor to the Trustee to administer the requirements of this subtitle, with the same powers and subject to the same conditions as were applicable to the Trustee.

(b) CONTINUING APPLICATION OF TERMS AND CONDITIONS.—The methodology selected by the Secretary under section 11054(b), and the payment of benefits pursuant to such methodology, shall be subject to the same arrangements, terms, and conditions as were applicable under this subtitle to the Trust Fund and the benefits paid under the Trust Fund (including provisions relating to the treatment of the Trust Fund under certain laws).

CHAPTER 7—REPORTS**SEC. 11061. ANNUAL VALUATIONS AND REPORTS BY ENROLLED ACTUARY.**

(a) DETERMINATION OF ACTUARIAL VALUATIONS.—The Trustee shall engage an enrolled actuary (as defined in section 7701(a)(35) of the Internal Revenue Code of 1986) who is a member of the American Academy of Actuaries to shall perform an annual actuarial valuation (in a manner and form determined by the Secretary) of the Trust Fund and the Federal Supplemental Fund for obligations assumed by the Federal Government under this subtitle.

(b) ANNUAL REPORT ON STATUS OF FUNDS.—The enrolled actuary shall prepare and submit to the Secretary and the Trustee an annual report on the actuarial status of the Trust Fund and the Federal Supplemental Fund, and shall include in the report—

(1) a projection of when assets in the Trust Fund will be insufficient to pay benefits and necessary administrative expenses when due; and

(2) a determination of the annual payment to the Federal Supplemental Fund under section 11053.

SEC. 11062. REPORTS BY COMPTROLLER GENERAL.

(a) **IN GENERAL.**—The Comptroller General is authorized to conduct evaluations of the administration of this subtitle to ensure that the Trust Fund and Federal Supplemental Fund are being properly administered and shall report the findings of such evaluations to the Secretary and the Congress.

(b) **ACCESS TO INFORMATION.**—For the purpose of evaluations under subsection (a) the Comptroller General, subject to section 6103 of the Internal Revenue Code of 1986, shall have access to and the right to copy any books, accounts, records, correspondence or other pertinent documents that are in the possession of the Secretary or the Trustee, or any contractor or subcontractor of the Secretary or the Trustee.

CHAPTER 8—JUDICIAL ENFORCEMENT

SEC. 11071. JUDICIAL REVIEW.

(a) **IN GENERAL.**—A civil action may be brought—

(1) by a participant or beneficiary to enforce or clarify rights to benefits from the Trust Fund or Federal Supplemental Fund under this subtitle;

(2) by the Trustee—

(A) to enforce any claim arising (in whole or in part) under this subtitle or the contract; or

(B) to recover benefits improperly paid from the Trust Fund or Federal Supplemental Fund or to clarify a participant's or beneficiary's rights to benefits from the Trust Fund or Federal Supplemental Fund; and

(3) by the Secretary to enforce any provision of this subtitle or the contract.

(b) **TREATMENT OF TRUST FUND.**—The Trust Fund may sue and be sued as an entity.

(c) **EXCLUSIVE REMEDY.**—This chapter shall be the exclusive means for bringing actions against the Trust Fund, the Trustee or the Secretary under this subtitle.

SEC. 11072. JURISDICTION AND VENUE.

(a) **IN GENERAL.**—The United States District Court for the District of Columbia shall have exclusive jurisdiction and venue, regardless of the amount in controversy, of—

(1) civil actions brought by participants or beneficiaries pursuant to this subtitle, and

(2) any other action otherwise arising (in whole or part) under this subtitle or the contract.

(b) **REVIEW BY COURT OF APPEALS.**—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia issued pursuant to an action described in subsection (a) that concerns the validity or enforceability of any provision of this subtitle or seeks injunctive relief against the Secretary or Trustee under this subtitle shall be reviewable only pursuant to a notice of appeal to the United States Court of Appeals for the District of Columbia Circuit.

(c) REVIEW BY SUPREME COURT.—Notwithstanding any other provision of law, review by the Supreme Court of the United States of a decision of the Court of Appeals that is issued pursuant to subsection (b) may be had only if the petition for relief is filed within 20 calendar days after the entry of such decision.

(d) RESTRICTIONS ON DECLARATORY OR INJUNCTIVE RELIEF.—No order of any court granting declaratory or injunctive relief against the Secretary or the Trustee shall take effect during the pendency of the action before such court, during the time an appeal may be taken, or (if an appeal is taken or petition for certiorari filed) during the period before the court has entered its final order disposing of the action.

SEC. 11073. STATUTE OF LIMITATIONS.

(a) ACTION FOR BENEFITS.—Any civil action by an individual with respect to a Federal benefit payment under this subtitle shall be commenced within 180 days of a final benefit determination.

(b) ACTION FOR BREACH OF CONTRACT OR OTHER VIOLATIONS.—Except as provided in subsection (c), any civil action for breach of the contract or any other violation of this subtitle shall be commenced within the later of—

(1) six years after the last act that constituted the alleged breach or violation or, in the case of an omission, six years after the last date on which the alleged breach or violation could have been cured; or

(2) three years after the earliest date on which the plaintiff knew or could have reasonably been expected to have known of the act or omission on which the action is based.

(c) SPECIAL RULE FOR ACTIONS AGAINST SECRETARY.—Notwithstanding subsection (b), any action against the Secretary arising (in whole or part) under this subtitle or the contract shall be commenced within one year of the events giving rise to the cause of action.

SEC. 11074. TREATMENT OF MISAPPROPRIATION OF FUND AMOUNTS AS FEDERAL CRIME.

The provisions of section 664 of title 18, United States Code (relating to theft or embezzlement from employee benefit plans), shall apply to the Trust Fund and the Federal Supplemental Fund.

CHAPTER 9—MISCELLANEOUS

SEC. 11081. COORDINATION BETWEEN SECRETARY, TRUSTEE, AND DISTRICT GOVERNMENT.

The Secretary, Trustee, and District Government shall carry out responsibilities under this subtitle and under the contract in a manner which promotes the cost-effective and efficient administration of benefit payments under the District Retirement Programs, and in a manner which avoids unnecessary interruptions and delays in paying individuals the full benefits to which they are entitled under such Programs.

SEC. 11082. STUDY OF ALTERNATIVES FOR FINANCING FEDERAL OBLIGATIONS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this subtitle, the Secretary shall enter into a contract with an independent consultant to conduct a study of actuarial alternatives for financing the federal obligations assumed under

Contracts.

- Records. this subtitle, together with an analysis of the impact of each alternative on the federal budget. The Secretary and the District Government shall cooperate with the consultant and shall provide direct access to such information systems, records, documents, information, or data as will enable the consultant to conduct the study.
- Reports. (b) DEADLINE.—The contract entered into under subsection (a) shall require the consultant to report the results of the study not later than 12 months after the date of enactment of this Act.
- (c) NO EFFECT ON FEDERAL OBLIGATIONS.—Nothing in this section may be construed to affect any obligation of the Federal Government to make payments under this subtitle.

SEC. 11083. ISSUANCE OF REGULATIONS BY SECRETARY.

The Secretary is authorized to issue regulations to implement, interpret, administer and carry out the purposes of this subtitle, and, in the Secretary's discretion, those regulations may have retroactive effect.

SEC. 11084. EFFECT ON REFORM ACT AND OTHER LAWS.

(a) REFORM ACT.—

(1) IN GENERAL.—This subtitle supersedes any provision of the Reform Act inconsistent with this subtitle and the regulations thereunder.

(2) TERMINATION OF PAYMENTS TO DISTRICT RETIREMENT FUNDS.—Section 144 of the Reform Act (DC Code, sec. 1-724) is amended by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of this Act, no Federal payments may be made to any Fund established by this title for any fiscal year after fiscal year 1997.”

(b) NO EFFECT ON TAX TREATMENT OF BENEFITS.—Except as otherwise specifically provided, nothing in this subtitle may be construed to affect the application of any provision of the Internal Revenue Code of 1986 to any annuity or other benefit provided to or on behalf of any individual, including any disability benefit or any portion of a retirement benefit attributable to an individual's disability status.

(c) NO EFFECT ON BENEFITS FOR PARK POLICE AND SECRET SERVICE.—Nothing in this subtitle shall be deemed to alter or amend in any way the provisions of existing law (including the Reform Act) relating to the program of annuities, other retirement benefits, or medical benefits for members and officers, retired members and officers, and survivors thereof, of the United States Park Police force, the United States Secret Service, or the United States Secret Service Uniformed Division.

SEC. 11085. REFERENCE TO NEW FEDERAL PROGRAM FOR RETIREMENT OF JUDGES OF DISTRICT OF COLUMBIA COURTS.

For provisions describing the retirement program for judges and judicial personnel of the District of Columbia, see subchapter B of chapter 4 of subtitle C.

SEC. 11086. FULL FAITH AND CREDIT.

Federal obligations for benefits under this subtitle are backed by the full faith and credit of the United States.

SEC. 11087. SEVERABILITY OF PROVISIONS.

If any provision of this subtitle, or the application of such provision to any person or circumstances, shall be held invalid,

the remainder of this subtitle, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.