H.R. 2661, DISTRICT OF COLUMBIA FISCAL PROTECTION ACT OF 1995

HEARING

BEFORE THE

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 2661

TO AMEND THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT TO PERMIT THE DISTRICT OF COLUMBIA TO EXPEND ITS OWN FUNDS DURING ANY PORTION OF A FISCAL YEAR FOR WHICH CONGRESS HAS NOT ENACTED THE BUDGET OF THE DISTRICT OF COLUMBIA FOR THE FISCAL YEAR, AND TO PROVIDE FOR THE APPROPRIATION OF A MONTHLY PRO-RATED PORTION OF THE ANNUAL FEDERAL PAYMENT OF THE DISTRICT OF COLUMBIA FOR SUCH FISCAL YEAR DURING SUCH PORTION OF THE YEAR

DECEMBER 6, 1995

Printed for the use of the Committee on Government Reform and Oversight

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H.R. 2661, DISTRICT OF COLUMBIA FISCAL PROTECTION ACT OF 1995

WEDNESDAY, DECEMBER 6, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room 2247, Rayburn House Office Building, Hon. Thomas M. Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis, Gutknecht, Flanagan, and Norton.

Also present: Representative Clinger.

Staff present: Ron Hamm, staff director; Howie Denis, counsel; Anne Mack, professional staff member; Ellen Brown, clerk; and Denise Wilson, minority professional staff.

Mr. DAVIS. Good morning, and welcome.

The hearing on H.R. 2661 will come to order.

I strongly support the purpose of this bill and commend my friend and colleague, Delegate Norton, for her sponsorship and the effort she has put into trying to find ways to keep the District of Columbia government moving forward.

The situation that caused this bill to be introduced has hurt the District of Columbia at a time when it needs help from the Federal Government, not additional problems. We're here today to look for ways to ensure the ongoing operation of the D.C. government during any future budget impasse can be resolved.

As you all know, on November 13th, the continuing resolution funding the District of Columbia and parts of the Federal Government expired with no new continuing resolution signed by the President. Beginning on November 14th, those Federal Departments without a fiscal year 1996 appropriation and the District of Columbia were forced to furlough nonexempted employees. This situation not only disrupted many regular government services, but in this time of crisis in the District of Columbia government, halted almost all ongoing efforts at reform.

With the District's cash and budget shortfalls and the need for Herculean reform efforts, it now seems to me that we can't allow this situation to recur. Yet we are rapidly approaching the possibility of another shutdown. The current continuing resolution expires December 15th.

The District's appropriation is still in the conference committee, and while I hope that the committee can reach an agreement soon, it appears that it may not be able to do so for the appropriation

process to be completed by December 15th. I hope and believe that we will not have an impasse resulting in a new shutdown on December 15th, but I'm not willing to bet the farm on it. That's why I believe that we should report legislation to allow the D.C. government to obligate and expand its own locally raised revenues and continue to operate even if there is a Federal impasse.

Let me stipulate a number of facts. First, there's no question that under current law the District was subject to the Antideficiency Act during the period when it had no authority to obligate spending.

Second, the Mayor has the power to designate essential services and exempt employees from being furloughed.

Third, the District was caught in this situation because of unusual budget circumstances in this most unusual year. With the District in crisis, the authority legislation being implemented and the authority itself getting up to speed, plus the lengthy delay in getting the city's budget before the Appropriations Committee, it was almost inevitable that the District would start fiscal year 1996 under a continuing resolution.

Fourth, shutting down the District government was an unintended consequence of the Federal budget impasse between Congress and the President. There was no willfulness or intention to impact the District. It simply became impossible to exclude the District from the larger Federal deadlock.

And fifth, there is no defensible reason to deny the District the use of its own locally raised revenues during such situations in the future.

The authority estimates the shutdown cost the District more than $7 million in lost productivity. In this city at this time, that is unacceptable cost. Private companies around the region are going bankrupt almost every day because they haven't been paid by the District. Important services are shutting down as contractors refuse to provide further goods and services without payment. Vital services are threatened and the very District officials who should be reinventing this government from top to bottom, are forced to spend inordinate amounts of time simply trying to keep the government working from day to day.

This city simply cannot afford to shut down and this Congress has a responsibility to see that it is not shutdown again.

The goals of H.R. 2661 are of vital importance not only for the people of Washington, but for the entire metropolitan region. Without a strong, well-functioning government in the District, the suburbs suffer. Many of the small businesses throughout the region are dependent on their contracts with the District government. Many employees of the District live in the suburbs. Washington, DC is the Capital City of this Nation. The thought of forcing large parts of the Capital City's government to shut down because of a Federal budget fight is unacceptable.

I have some serious question about the provision of H.R. 2661. Section 3, in effect, provides a permanent automatic appropriation of Federal funds to the District. I don't believe that it's appropriate in this legislation to include such guaranteed payment, and I think we're going to be willing to talk about that as we move forward to marking up this bill and making it viable.

In addition, the Congressional Budget Office has determined that this provision would score under the Budget Act of 1990 and there is no provision for offsetting that scoring as required. If we allow the District to obligate its own revenues even without an appropriation bill, then the Federal payment is the only leverage we will retain over the District.

The Federal payment because of its size and the fact that it's a cash payment, is important to the District, and I believe that it should constitute sufficient leverage to encourage cooperation by the District government. At the same time, I'm very reluctant to give away that leverage.

Section 2 of H.R. 2661 seems to be very broadly worded and ill-defined. I hope that our witnesses can give us some help and advice in narrowing the focus of this section to do what is necessary, without going too far and allowing the District to obligate funds it doesn't have or doesn't get when an impasse is finally settled.

While we need to act quickly, we also need to act wisely. This effort to allow the District to obligate its own revenues is supported in principle by the House Leadership. I believe that it's not opposed by the Appropriations Committee, as long as it doesn't include a permanent appropriation. Compliance with the Budget Act will require us to delete Section 3, in any case.

OMB testimony states that the effort is also supported by the President. I have tentatively scheduled a meeting to mark up this legislation for Friday, December 8th, so that we can take it to the full committee meeting on Tuesday, December 12th.

This is a very tight schedule, but it's important to be ready for the December 15th deadline. If everyone is willing to work together, I am certain that we can ensure that, whatever happens on the Federal level, the District of Columbia government will not have a shutdown again.

And I would now yield to Ms. Norton, the ranking member of the subcommittee who has really I think performed yeoman's task in getting this bill ready for public hearing.

[The prepared statements of Hon. Thomas M. Davis and Hon. Steven C. LaTourette, and the text of H.R. 2661 follow:]

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Congress of the United States

House of Representatives

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OPENING STATEMENT OF

REPRESENTATIVE TOM DAVIS
CHAIRMAN, DISTRICT OF COLUMBIA SUBCOMMITTEE

GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

DECEMBER 6, 1995

HEARING ON H. R. 2661
THE DISTRICT OF COLUMBIA FISCAL PROTECTION ACT OF 1995

Good morning and welcome. The hearing on HR 2661 will come to order. I strongly support the purpose of this bill, and commend my friend and colleague Del. Norton for her sponsorship and the effort she has put in to trying to find ways to keep the District of Columbia government moving forward. The situation that caused this bill to be introduced has hurt the District of Columbia at a time when it needs held from the federal government, not additional problems.

We are here today to look for ways to ensure the ongoing operation of the District of

Columbia government during any future federal budget impasse. As you all know, on November 13, the Continuing Resolution funding the District of Columbia and parts of the federal government expired with no new CR signed by the President. Beginning on November 14 those federal departments without an FY 1996 appropriation and the District of Columbia were forced to furlough non-excepted employees.

This situation not only disrupted many regular government services, but, in this time of crisis in the District of Columbia government, halted almost all ongoing efforts at reform. With the District's cash and budget shortfalls and the need for herculean reform efforts, it seems to me that we cannot allow such a situation to recur. Yet we are rapidly approaching the possibility of another shutdown. The current Continuing Resolution expires on December 15. The District's appropriation is still in the Conference Committee and, while I hope that the Committee can reach an agreement soon, it appears that it may not do so in time for the appropriation process to be completed by December 15. I hope and believe that we will not have an impasse resulting in a new shutdown on December 15, but I'm not willing to bet the farm on it. That is why I believe that we should report legislation to allow the District of Columbia government to obligate and expend its own locally raised revenues and continue to operate even if there is a federal impasse.

Let me stipulate a number of facts. First, and I have found this to be the most important fact as I have talked to more people about this issue - the District of Columbia cannot spend one penny without an appropriation passed by Congress and signed by the President. This includes the federal payment, federal grant money and District tax receipts. Many people are under the impression that the District is like a state in this regard and that it can spend its own revenues while the appropriation bill only deals with federal funds - that is not correct. Second, this legislation is very narrowly focused in its impact and would only apply in a most unusual situation. If the District's appropriation has been passed this legislation will have no effect. If the District is operating under a Continuing Resolution this legislation would have no effect. Only in a situation where there was neither a CR or an approved DC appropriation would this legislation apply. If this legislation had been on the books on October 1, 1995 it would not have been in effect from October 1 through November 13 because there was a CR. This legislation would not be in effect today because there is another CR. This legislation would have been in effect from November 14 through November 20 if it had been on the books. So this legislation would only be rarely invoked. The point is that there is now a precedent where legislation such as this could in fact be needed and I do not want to face that situation again without be prepared to meet it. That is why I support the purpose of this bill.

Third, there is no question that under current law the District was subject to the Anti-Deficiency Act during the period when it had no authority to obligate spending. Fourth, the Mayor has the power to designate essential services and except employees from being furloughed. Fifth, the District was caught in this situation because of unusual budget circumstances in this most unusual year. With the District in crisis, the Authority legislation being implemented, and the Authority itself getting up to speed, plus the lengthy delay in getting the city's budget before the Appropriations Committee, it was almost inevitable that the District would start FY 1996 under a Continuing Resolution. Fifth, shutting down the District government was an unintended consequence of the federal budget impasse between Congress and the President. There was no willfulness or intention to impact the District--- it simply became impossible to exclude the District from the larger federal deadlock. And sixth, there is no defensible reason to deny the District the use of its own locally raised revenues during such a situation in the future.

The Authority estimates that the shutdown cost the District more than $7 million in lost

productivity. In this city at this time that is an unacceptable cost. Private companies around the region are going bankrupt almost every day because they haven't been paid by the District. Important services are shutting down as contractors refuse to provide further goods and services without payment. Vital services are threatened and the very District officials who should be reinventing this government from top to bottom are forced to spend inordinate amounts of time simply trying to keep the government working from day-to-day. This city simply cannot afford to shut down and this Congress has a responsibility to see that it does not shut down again.

The goals of HR 2661 are of vital importance not only for the people of Washington, DC but also for the entire metropolitan region. Without a strong, well functioning government in the District, the suburbs suffer. Many of the small businesses throughout the region are dependent on their contracts with the District government. Many employees of the District live in the suburbs. Washington, DC is the capital city of our country. The thought of forcing large parts of capital city's government to shut down because of a federal budget fight is unacceptable.

I have some serious question about the provisions of HR 2661. Section 3, in effect, provides a permanent, automatic appropriation of federal funds to the District. I do not believe that it is proper in this legislation to include such guaranteed payment. In addition, the Congressional Budget Office has determined that this provision would "score" under the Budget Act of 1990 and there is no provision offsetting that "scoring" as required. The OMB testimony also opposes Section 3 of the bill.

If we allow the District to obligate its own revenues even without an appropriation bill then the federal payment is the only leverage we will retain over the District. The federal payment, because of its size and the fact that it is a cash payment, is important to the District and I believe that it should constitute sufficient leverage to encourage cooperation by the District government. At the same time I am very reluctant to give away that leverage.

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While we need to act quickly, we also need to act wisely. This effort to allow the District to obligate its own revenues is supported, in principle, by the House leadership. I believe that it is not opposed by the Appropriations Committee as long as it does not include a permanent appropriation. Compliance with the Budget Act will require us to delete Section 3 in any case. The Office of Management and Budget testimony states that this effort is also supported by the President. I have tentatively scheduled a meeting to markup this legislation for Friday, December 8 so that we may take it up at the full Committee meeting on Tuesday, December 12. This is a very tight schedule, but it is important to be ready before the December 15 deadline. If everyone is willing to work together I am certain that we can ensure that whatever happens on the federal level, the District of Columbia government will not have to shut down again.

Statement of Honorable Steven C. LaTourette
H.R. 2661, District of Columbia Self-Government Reorganization Act
December 6, 1995

Mr. Chairman:

I want to congratulate Delegate Norton for her efforts in crafting this legislation and also Chairman Davis for scheduling this hearing so quickly, in light of the time constraints under which we find ourselves. As we all know, the December 15 deadline for the latest Continuing Resolution is rapidly approaching.

Because of its unique status as the "federal city," the District of Columbia sometimes finds itself caught in the crossfire from opposite ends of Pennsylvania Avenue. When the Congress and the White House cannot reach agreement on appropriations and budget matters, thus forcing a government shutdown, the District, unfortunately, bears a disproportionate share of the burden. District area residents who work for the federal government are furloughed, thus costing the city much needed revenue generated by these workers on a day to day basis. More important, however, because the city receives a large portion of its budget through a federal government appropriation, if that appropriation has not been approved, vital city services are forced to be temporarily suspended.

Delegate Norton's legislation is an important attempt to help soften that blow. While I agree with the intent of this bill, I am concerned that H.R. 2661 would create, in essence, a permanent continuing resolution for the District of Columbia by allowing the city government to continue its normal operations by using its own resources, but mandates the city must spend at the lowest level approved by Congress. The lowest level could include either the previous year's spending level, the House passed level, or the Senate level.

I would also like to take a moment to thank our panel of witnesses for taking time from their hectic schedules to be with us this morning. As those most closely associated with the day-to-day finances and working conditions in the city, I know they have much to say about the impact our budget impasses have on the District. I look forward to their testimony.

I

104TH CONGRESS
1ST SESSION

H. R. 2661

To amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the District of Columbia to expend its own funds during any portion of a fiscal year for which Congress has not enacted the budget of the District of Columbia for the fiscal year, and to provide for the appropriation of a monthly pro-rated portion of the annual Federal payment to the District of Columbia for such fiscal year during such portion of the year.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1995

Ms. NORTON introduced the following bill; which was referred to the Committee on Government Reform and Oversight

---

A BILL

To amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the District of Columbia to expend its own funds during any portion of a fiscal year for which Congress has not enacted the budget of the District of Columbia for the fiscal year, and to provide for the appropriation of a monthly pro-rated portion of the annual Federal payment to the District of Columbia for such fiscal year during such portion of the year.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "District of Columbia
3 Fiscal Protection Act of 1995".

4 **SEC. 2. PERMITTING DISTRICT OF COLUMBIA TO EXPEND**
5 **DISTRICT FUNDS DURING PERIOD OF DELAY**
6 **IN CONGRESSIONAL ENACTMENT OF DIS-**
7 **TRICT OF COLUMBIA APPROPRIATIONS ACT.**

8 (a) IN GENERAL.—Subpart 1 of part D of title IV
9 of the District of Columbia Self-Government and Govern-
10 mental Reorganization Act is amended by inserting after
11 section 446 (sec. 47–304, D.C. Code) the following new
12 section:

13 "EXPENDITURE OF DISTRICT FUNDS DURING DELAY IN
14 CONGRESSIONAL ENACTMENT OF BUDGET

15 "SEC. 446A. (a) EXPENDITURE PERMITTED.—

16 "(1) IN GENERAL.—Notwithstanding section
17 446, if the District of Columbia Appropriations Act
18 for a fiscal year has not been enacted by the first
19 day of the fiscal year, during the period described in
20 subsection (c) an officer or employee of the District
21 of Columbia government may obligate or expend
22 amounts out of the general fund, enterprise funds,
23 and other non-Federal funds of the District of Co-
24 lumbia for the fiscal year under the authority and
25 conditions provided in such Act for continuing the
26 operations of the government of the District of Co-

1 lumbia and other activities chargeable in whole or in
2 part against the revenues of the District that were
3 conducted in the previous fiscal year and for which
4 appropriations, funds, or other authority would be
5 available in such Act.

6 "(2) NOTIFICATION OF FINANCIAL RESPON-
7 SIBILITY AND MANAGEMENT ASSISTANCE AUTHOR-
8 ITY.—In the case of a fiscal year which is a control
9 year (as defined in section 305(4) of the District of
10 Columbia Financial Responsibility and Management
11 Assistance Act of 1995), no obligations or expendi-
12 tures may be made pursuant to this subsection until
13 the Mayor of the District of Columbia has provided
14 to the District of Columbia Financial Responsibility
15 and Management Assistance Authority prior written
16 notification regarding such obligations and expendi-
17 tures.

18 "(b) APPLICABLE RATE OF OBLIGATIONS AND EX-
19 PENDITURES.—

20 "(1) COMPARISON TO PREVIOUS FISCAL
21 YEAR.—No amount made available for obligation or
22 expenditure for a project or activity under subsection
23 (a) for a fiscal year may be greater than the amount
24 or authority provided in the previous fiscal year for
25 such project or activity.

1 "(2) DIFFERENCES IN AMOUNTS PROVIDED IN
2 HOUSE AND SENATE LEGISLATION.—If an amount
3 or authority made available for obligation or expend-
4 iture for a project or activity for a fiscal year under
5 the District of Columbia Appropriations Act for the
6 fiscal year as passed by the House of Representa-
7 tives is different from the amount made available
8 under such Act as passed by the Senate, the amount
9 made available for obligation or expenditure for the
10 project or activity under subsection (a) shall be the
11 lesser of—
12 "(A) the amount or authority made avail-
13 able as permitted by the action of the House;
14 "(B) the amount or authority made avail-
15 able as permitted by the action of the Senate;
16 or
17 "(C) the amount or authority provided in
18 the previous fiscal year.
19 "(c) PERIOD DESCRIBED.—The period described in
20 this subsection with respect to a fiscal year is the period
21 which begins on the first day of the fiscal year and ends
22 on the date of enactment of the District of Columbia Ap-
23 propriations Act for the fiscal year.".

1 (b) CONFORMING AMENDMENT.—The fourth sen-
2 tence of section 446 of such Act (sec. 47–304, D.C. Code)
3 is amended—
4 (1) by striking "and subsections" and inserting
5 "subsections"; and
6 (2) by inserting "and section 446A," after "sec-
7 tion 490,".
8 (c) CLERICAL AMENDMENT.—The table of contents
9 for subpart 1 of part D of title IV of such Act is amended
10 by inserting after the item relating to section 446 the fol-
11 lowing new item:

"Sec. 446A. Expenditure of District funds during delay in Congressional enactment of budget.".

12 **SEC. 3. AUTOMATIC MONTHLY PRO-RATED APPROPRIA-**
13 **TION OF FEDERAL PAYMENT DURING PERIOD**
14 **OF DELAY IN ENACTMENT OF DISTRICT OF**
15 **COLUMBIA APPROPRIATIONS ACT.**
16 (a) IN GENERAL.—Title V of the District of Colum-
17 bia Self-Government and Governmental Reorganization
18 Act (sec. 47–3405 et seq., D.C. Code) is amended by add-
19 ing at the end the following new section:
20 "PRO-RATED APPROPRIATION OF FEDERAL PAYMENT
21 DURING PERIOD OF DELAY IN CONGRESSIONAL EN-
22 ACTMENT
23 "SEC. 504. (a) IN GENERAL.—For each fiscal year
24 for which the annual Federal payment is authorized under

1 this title and for which there has not been enacted legisla-
2 tion appropriating the payment by the first day of the fis-
3 cal year, there is hereby appropriated to the District of
4 Columbia on the first day of each month which occurs dur-
5 ing the period described in subsection (b) an amount equal
6 to 1/12 of the lesser of—

7 "(1) the amount proposed to be appropriated as
8 the annual Federal payment under this title in the
9 District of Columbia Appropriations Act for the fis-
10 cal year, as passed by the House of Representatives;

11 "(2) the amount proposed to be appropriated as
12 the annual Federal payment under this title in the
13 District of Columbia Appropriations Act for the fis-
14 cal year, as passed by the Senate; or

15 "(3) the amount appropriated as the annual
16 Federal payment under this title in the District of
17 Columbia Appropriations Act for the previous fiscal
18 year.

19 "(b) PERIOD DESCRIBED.—The period described in
20 this subsection with respect to a fiscal year is the period
21 which begins on the first day of the fiscal year and ends
22 on the date of enactment of the District of Columbia Ap-
23 propriations Act for the fiscal year.".

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for title V of such Act is amended by inserting after the
3 item relating to section 503 the following new item:

"Sec. 504. Pro-rated appropriation of Federal payment during period of delay in congressional enactment.".

4 **SEC. 4. EFFECTIVE DATE.**

5 The amendments made by this Act shall apply with
6 respect to fiscal years beginning with fiscal year 1996.

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Ms. NORTON. Thank you very much, Mr. Chairman.

May I express my appreciation and that of D.C. residents and officials, to Chairman Tom Davis for stepping forward on the basis of principle and the best interests of the District, to hold this hearing and then move for a rapid markup. Instead of sidestepping the crushing effect of a shutdown on a city in the midst of the worst financial crisis in memory, the chairman has taken hold of the issue, resolved to explore it and seek a solution.

The D.C. Fiscal Protection Act, which the chairman has cosponsored, is a simple idea, about simple efficiency, and if I may say so, simple justice. In essence, it would allow the District to obligate and spend local tax-raised money to avoid a government shutdown when there is a Federal budget dispute or the D.C. appropriation is not signed by the beginning of the fiscal year.

Almost 85 percent of the D.C. appropriation is locally raised. Keeping a complicated city functioning is so transparently necessary that I believe the only reason that Congress has not acted before now is that until last month there had never been a shutdown of any significant duration.

Whatever partisanship, even hostility, the District has sometimes received from the Congress, I do not believe that Members intend to do the District active, deliberate harm. However unintentional, a shutdown does exactly that.

The District, with the help of the financial authority, must fix the District government. Only the Congress can fix the shutdown problem. We had best be about that with some haste. Even if the city were in the best shape, a shutdown of any significant duration would be crippling to residents and services.

Unlike the Federal Government, a city provides frontline services, almost all of which are essential to day-to-day decent living. Yet because the applicable statute, 31 USC Section 1341, relates to Federal agencies, the District by the letter of the law initially was forced to shut down many vital services. Among them were all 13 public health clinics; 2 of the 13 are specialty clinics for highly communicable diseases, such as tuberculosis.

Another example was the Parole Board, shut tight, with parolees, unsupervised in a city whose high crime rates are directly related to recidivism. The Postal Service, I was told, is a fee-generating agency, albeit with a hefty Federal subsidy. Yet most fee-generating agencies in the District were not considered essential, despite a severe financial crisis and the delay in the Federal payment that puts a premium on every single dollar the District can collect on its own.

I do not believe Congress has been aware of or intends these irrational and harmful consequences. Congress has been the District's severest critic, taking no prisoners on issues of inefficiency and waste. Despite the evidence Congress has gathered over the years to support its criticism, this body would be hard-pressed to find an example of greater waste than that which this body unwittingly caused during the week-long shutdown.

Despite unrecoverable losses in productivity, District employees, like Federal employees, simply had to be paid because they were forced on to administrative leave. The case for back pay for district employees was especially strong because of horrendous wage give-

backs and furlough days that have been required of them by the Congress.

In addition to H.R. 2661, I've introduced H.J. Res. 128, in case of another shutdown on December 15th, or as seems more likely, another short-term continuing resolution. A limited CR allows the D.C. government to operate in a straightjacket, fraught with peril.

The CFO, already besieged with competing debts he cannot meet, would be required to calibrate what can be obligated in limited amounts set by the timeframe of the CR. How is he to avoid over-obligation, for which the District has been severely criticized, and at the same time meet unfunded Federal mandates that must be paid on time, such as AFDC, other drop-dead obligations such as payroll and debts to vendors, desperate after months of not being paid by the chronically cash-short district?

In the midst of an insolvency crisis, the only thing that hadn't happened to destabilize and set back D.C.'s economic recovery, has now happened. A shutdown of a troubled city means costs that can never be recovered.

A shutdown treats the District like Federal agencies whose funds come entirely from the Federal Government, not like the very high taxpaying jurisdiction that the District is. Caught in the middle of other people's fights, the District is not merely squeezed, but crushed. Across party lines, this is not the intent of this body. The Congress has nothing to lose under H.R. 2661, and everything to gain in the stabilization and recovery of the District government this body now seeks.

H.R. 2661 sets no precedent, because the District of Columbia is the only 1 of the 13 appropriations that is composed chiefly of locally raised funds and the only one that is not a Federal agency.

This year, the Congress has determined that it will not help the District of Columbia by allowing it to spend its full appropriation free of cuts. If you cannot help, we ask that at least you do no harm. Free our own money so that we can keep our own city operating without tying both hands behind us and hurting the innocent bystanders, D.C. residents and employees.

Thank you, Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you very much.

Just recognize that the subcommittee vice chairman, Mr. Gutknecht, is in the room—and I think, Gil, you're not going to make any statement at this time but reserve the right to put it in the record later.

Mr. GUTKNECHT. Yes, Mr. Chairman. I would like to ask some questions later on, but no opening statement.

Mr. DAVIS. Thank you.

I will move to our first witness. We have a surprise witness who doesn't appear on the published list, but George Gekas, who is a senior Member of the Republican Conference, a distinguished member of the Judiciary Committee, asked to testify.

I would just like to say that on Mr. Gekas' behalf, I think when it comes to Federal shutdowns and being proactive in legislation to try to remedy that situation, Mr. Gekas has taken a lead in this Congress and we're pleased to have you here today.

STATEMENT OF HON. GEORGE W. GEKAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. GEKAS. I thank the chairman, and the members of the committee. I offer my support for the legislation which Delegate Norton has just described and which the chairman has endorsed.

I do so with three sets of credentials: The first set of credentials that I offer to the committee is the fact that I'm a Member of the Congress and this hearing, like many others, accords every Member a chance to voice his positions, even though he or she may not be a member of that committee. That's excellent, I thank you for that.

Second set of credentials that I want to spread on the record is that in times past, I have voted for D.C. appropriations at a time when it was not the popular thing to do, neither at home nor within the halls of the Congress.

Specifically, I want to mention one aspect of what I've been relating here, and that is when Mayor Kelly first was inaugurated and took office as Mayor, there was a great issue about additional funds required for the District of Columbia to get going under the new administration. And I'm proud to say that I spoke in favor of it, to give the new administration a chance and was one of the few again who voted in favor of it. That substantiates my saying to you that I have an extra set of credentials for involving myself in a D.C. matter.

And third, what has been alluded to by the chairman is my third set of credentials. Namely, for several terms now, I have been trying to avoid the government shutdown that haunts us every fiscal year, by calling for what I have termed "instant replay legislation." That is to say that on October 1st or September 30th, when the fiscal year ends, if the Government, the Congress and the President, have not enacted appropriations legislation, to the extent that they have not done so, on October 1st, it would go into effect by instant replay, automatically, last year's budget or the House numbers or the Senate numbers, just as this legislation requires for one of the portions of the proposed bill.

And the reason it hasn't passed all these years is because it makes sense. And if it makes sense, we're up against a horrible obstacle, it seems.

What your legislation here does is open the window a little bit to show the efficacy of such legislation, and despite the chairman's reservations about what it would do to segregate the District of Columbia for a continuing resolution instant replay like I'm contemplating, I would hope he could set aside only for the selfish reasons that I advance, this would set a precedent, perhaps then we could finally enact instant replay for all future government shutdowns, for all purposes, so that there are no Federal employees who would ever have to go unworking and furloughed and termed nonessential or essential, and all that debacle that occurs when fiscally we can't agree on a future budget.

I intend to go before the Rules Committee when your legislation reaches that body to try to make in order not only my support for your legislation, but to open the window a little wider and make government shutdowns forever a thing of the past.

I thank the Chair and the members of the committee.

Mr. DAVIS. Thank you.

And I thank the gentleman from Pennsylvania for his remarks.

Let me just add that Mr. Gekas has been so proactive in this. At every chance you've had you have worked with the committee and the leadership, even to the point of going out and looking at private banks to find ways that employees could get loans without interest during this time period. I know really of no Member—and he's not from this region—who is going out, looking after the welfare of Federal employees. It is because he understands, as we do, that if government is going to continue to deliver services at the least expensive cost to our constituents, we need to attract the best and maintain the brightest in our Federal work force. These shutdowns do not help that. They don't help the Federal Government, and they don't help the city.

You've labeled a debacle of what happened. It is an embarrassment, when we can't get an agreement. I hope we can move forward with your legislation at a different level and see what happens. I will certainly come back and look at the sections you noted in terms of setting the precedent.

The difficulty we have is with the Congressional Budget Office scoring it and the overwhelming opposition of appropriations, it may jeopardize what we could—what we may be able to accomplish in a realistic fashion. But I very much appreciate your remarks.

Let me also recognize that the chairman of the full committee has just come in, your colleague from Pennsylvania, Mr. Clinger.

Mr. Chairman, it's a pleasure to welcome you here today. If you'd care to make any comments, Mr. Gekas has just testified on this.

Mr. CLINGER. I'm sorry I missed my colleague's testimony.

Mr. GEKAS. I am, too.

Mr. CLINGER. You can be sure I'll read it with great care.

Mr. GEKAS. I'll make sure you will.

Mr. CLINGER. Thank you, Mr. Chairman. I'm looking forward to hearing some of the witnesses.

Mr. DAVIS. The gentlelady from Washington.

Ms. NORTON. Actually, I want to thank the chairman for allowing Mr. Gekas to come forward and offer his testimony. The fact that Mr. Gekas is not from the region I think emphasizes the nationwide impact of this matter. His interest, of course, has been on a principled basis, but the fact is that Federal employees, far more than are numbered in this region, are affected all over the country, with the resonating effects on many local jurisdictions.

The Gekas bill would of course solve everybody's problem, I strongly support it. I support it also because while this morning's matter is about D.C. government employees, by far the largest employer in the District of Columbia is the Federal Government and so the District gets it coming and going. Its own government gets shutdown so its own employees are affected and services and residents are tossed overboard, and then our Federal employees must stay at home. The effect of this on a troubled city with a troubled economy cannot be overemphasized.

Moreover, Mr. Gekas, your bill is important for another reason. The Congress in fairness has recognized that we forced people on administrative leave, and therefore we ought to pay them, just as if somebody is forced on administrative leave because he is alleged

to have stole some money, we can't take him off the payroll until we prove it. So we say at least when it comes to Federal employees forced to stay at home, out of fairness, we have to pay them. But if the truth be told, we don't have to pay them. And so they sit at home not knowing if, in fact, they will be paid.

Nobody who works for anybody ought to be subject to that kind of uncertainty, especially at a time when for two decades the American standard of living has been going down, not up. At a time when we are reinventing the Federal Government, trying to make it more efficient, leave aside the District government for the moment, we ought to be reinventing this procedure within the Federal Government as well.

And I believe your bill would do just that and would have the effect also of rescuing the District from these shutdowns and from these stops and starts, which, in any case, would destabilize a complicated city.

I thank you for offering your bill and for taking the time to come here this morning.

Mr. DAVIS. I would just note one other thing.

Federal employees, and I'm not sure with the District employees if this applies, but they cannot legally go out and work other jobs while they're being furloughed. There is a statutory bar to that. They can't even go out and work at a 7–11 or work at a McDonald's or get part-time jobs during that period. There are conflicts in doing that. So we basically deprive them of doing anything, which is why we pay them.

Let me just ask if Mr. Gutknecht has any questions?

Mr. Clinger, any additional comments?

Thank you very much, George. We appreciate you coming by.

Mr. GEKAS. I thank you.

Mr. DAVIS. I'm now pleased to call our first scheduled witness, the Honorable Edward DeSeve, Controller of the United States.

This is the first time, Ed, that you've been asked to testify before this subcommittee, and I'm delighted by your presence and am grateful for the assistance that you have already provided.

For those in the audience who do not know, Ed was the administration's point person working with us on the authority legislation. I can honestly say that the legislation would not have been half as complete as it is without his invaluable knowledge and existence. It may not have happened at all. He was very, very critical.

As you know, Ed, it's the policy of this committee that all witnesses be sworn before they testify.

Would you please rise with me and raise your right hand?

[Witness sworn.]

Mr. DESEVE. I do.

Mr. DAVIS. Thank you.

You can be seated and the subcommittee will carefully review any written statements you may care to submit.

STATEMENT OF EDWARD DeSEVE, CONTROLLER, OFFICE OF MANAGEMENT AND BUDGET

Mr. DESEVE. Thank you, Mr. Chairman.

I want to thank you and Delegate Norton, Mr. Clinger and others for the work that we have all done together to try to resolve the problems of the District.

Mr. DAVIS. If you resolve the problems of the microphones now, we'll be doing real well.

Mr. DESEVE. Does this happen to all Democrats?

Mr. DAVIS. Keep trying.

Mr. DESEVE. OK.

Is that better?

Mr. DAVIS. Yes.

Mr. DESEVE. Good, thank you very much.

I want to begin by indicating the administration's support for the principles and concepts embodied in 2661, and a willingness to work to perfect any language that needs to be altered in order to bring it into effect.

Mr. Chairman, Members of the committee, I welcome the opportunity to speak on behalf of the administration regarding the bill, which is aimed at protecting the District government from future shutdowns in the event of the Federal Government's failure to reach agreement on appropriations bills.

Although about 85 percent of the District government's operations are funded by sources other than the annual Federal payment, the entire District budget is legally subjected to congressional approval through the annual appropriations process. Because the 1996 District appropriation bill had not been enacted, the shutdown of the Federal Government from November 14th to 19th, forced the District to suspend many basic services, close many of its offices, and keep thousands of employees at home.

The impact of a Federal funding hiatus upon the District of Columbia was not analogous to the situation faced by States during a Federal budget impasse. States were mostly affected by nondisbursement of Federal grant moneys, while the District government faced partial shutdown because the Congress must approve its entire budget.

Although the District's police, fire and other emergency services continued operating and schools remained open, many other District agencies funded with local tax receipts were unable to provide vital services to the public. For example, the city stopped most of its routine trash pickup. Eleven neighborhood health clinics that provided routine medical services to low-income District residents were closed, as were recreation centers.

The partial closure of the Government, induced by a lack of appropriated funds, was a unique event for the District. In the past, either the District's appropriation bill had passed before a Federal funding hiatus occurred, or a continuing resolution had been enacted permitting the District government to continue operating until the differences over the appropriation bill were resolved.

Without the precedent—precedent of a shutdown, a legislative proposal such as the District Fiscal Protection Act may not have seemed necessary. But now a precedent has been established. A shutdown has indeed occurred. The administration believes legislation is needed to prevent its recurrence.

H.R. 2661 would do essentially two things: First, it would authorize the District to spend its own funds under a continuing resolu-

tion formula, continuing operations in the event its appropriation had not been enacted by that time.

Second, the bill would also provide on a monthly basis, an automatic appropriation of a prorated share of the Federal payment to the District if enactment of the appropriation bill had been delayed. The administration has assessed the bill in light of two perspectives, both legitimate.

The first, allowing the Government to deliver services to residents who pay for them in the event of a shutdown. The second, preserving congressional authority to review and approve the District's annual budget and Federal payment. The administration supports the District having the authority to spend its own funds in the event its appropriation bill has not been enacted by Congress and a continuing resolution has not been passed.

This support contemplates the revision—the provision of a pro rata formula to control the District's rate of operations during a Federal hiatus. OMB would be pleased to assist in drafting of such language.

However, the administration does not support automatically appropriating prorated shares of the Federal payment, because this would diminish congressional oversight and review of direct Federal funds to the District, as well as potentially impair the repayment of advances to the Department of the Treasury. Specifically, Section 2 of the bill would authorize the District to spend its own funds, and although the administration supports the intent, some care should be taken regarding the rate of obligation.

Section 3 of the bill appropriates prorated monthly shares of the Federal payment in cases of a funding hiatus. The amount would be based on the lower of the House- or Senate-passed versions or the previous year's enacted. This could constitute a permanent and definite appropriation of the Federal payment, and as I indicated earlier, would diminish congressional oversight of direct Federal funding to the District.

Moreover, an automatic disbursement of the Federal payment could impair the mechanism established for repayment to the District of Treasury advances made pursuant to the Financial Responsibility and Management Assistance Act of 1995. The administration is opposed to this provision.

This concludes my testimony, and I would be glad to respond to any other questions you or members of the subcommittee may have.

[The prepared statement of Mr. DeSeve follows:]

TESTIMONY OF G. EDWARD DESEVE

CONTROLLER, OFFICE OF MANAGEMENT AND BUDGET

BEFORE THE

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

ON H.R. 2661

DECEMBER 6, 1995

Thank you Mr. Chairman and members of the Committee for the opportunity to testify on "The District Fiscal Protection Act", H.R. 2661, introduced by Delegate Norton on November 17, 1995. I welcome the opportunity to speak on behalf of the Administration regarding the bill, which is aimed at protecting the District government from future "shutdowns" in the event of the Federal Government's failure to reach agreement on appropriations bills.

Although about 85 percent of the District Government's operations are funded by sources other than the annual Federal Payment, the entire District budget is legally subject to Congressional approval through the annual appropriations process. Because the 1996 District appropriations bill had not been enacted, the shutdown of the Federal Government from November 14 to 19 forced the District Government to suspend many basic services, close many of its offices, and keep thousands of employees at home.

The impact of a Federal funding hiatus upon the District of Columbia was not analogous to the situation faced by states during a Federal budget impasse. States were mostly affected by non-disbursement of Federal grant monies, while the District Government faced partial shutdown because the Congress must approve its entire budget. Although the District's police, fire and other emergency services continued operating and schools remained open, many other District agencies funded with local tax receipts were unable to provide vital services to the public. For example, the city stopped most of its routine trash pickup services. Eleven neighborhood health clinics that provide routine medical services to low-income District residents were closed.

The partial closure of the District Government, induced by a lack of appropriated funds, was a unique event for the District of Columbia. In the past, either the District's appropriations bill had been passed before a Federal funding hiatus occurred, or a Continuing Resolution had been enacted, permitting the District Government to continue operating until differences over the appropriations bill were resolved. Without the precedent of a shutdown, a legislative proposal such as the "District Fiscal Protection Act" may not have seemed necessary. But now, a precedent *has* been established. A shutdown *has*, indeed, occurred. The Administration believes legislation is needed to prevent its recurrence.

H.R. 2661 would do essentially two things. First, it would authorize the District to spend its own funds under a typical Continuing Resolution formula to continue operations in the event its appropriations had not been enacted by that time. Second, the bill would also provide, on a

monthly basis, an automatic appropriation of a pro-rated share of the Federal payment to the District if the enactment of the appropriations bill had been delayed.

The Administration has assessed the bill in light of two perspectives, both legitimate: the first, allowing the District Government to deliver services to the residents who pay for them in the event of a shutdown; the second, preserving Congressional authority to review and approve the District's annual budget. The Administration supports the District having the authority to spend its own funds in the event its appropriations bill has not been enacted and a Continuing Resolution has not been passed. This support contemplates the provision of a pro rata formula to control the District's rate of operations during a Federal funding hiatus. OMB would be pleased to assist in the drafting of such language. However, the Administration does not support automatically appropriating pro rated shares of the Federal payment because this would diminish Congressional oversight and review of direct Federal funds to the District, as well as potentially impair the repayment of advances to the Department of the Treasury.

Specifically, Section 2 of the bill would authorize the District to spend its own funds under a typical Continuing Resolution formula to continue operations in the event its appropriations had not been enacted by that time. Although the Administration supports the underlying intent of Section 2, some care should be taken regarding the rate of obligation. Under the current bill, total obligations for individual projects and activities could not exceed the prior fiscal year funding level. In cases in which the pending House-passed and Senate-passed versions differ, total obligations would be based on the lesser of the House, Senate, or prior fiscal year. The bill does

require prior notification of the Financial Responsibility and Management Assistance Authority about the Mayor's spending plan, providing for some continued oversight. However, without a pro rata formula to restrain the funding levels, the District Government could obligate full year amounts at any rate, potentially undercutting Congressional prerogatives in final appropriation action.

Section 3 of the bill appropriates the pro-rata monthly share of the Federal payment in cases of a funding hiatus for the District. The amount would be based on the lower of the House-passed or Senate-passed versions or the previous year's enacted level. This could constitute a permanent indefinite appropriation of the Federal Payment which could diminish Congressional oversight of direct Federal funding to the District. Moreover, an automatic disbursement of the Federal Payment could impair the mechanism established for repayment to the Department of the Treasury of advances made, pursuant to the Financial Responsibility and Management Assistance Act of 1995. The Administration is opposed to this provision.

That concludes my testimony. I will be glad to respond to any questions that you or other Members of the Subcommittee may have at this time.

Mr. DAVIS. Mr. DeSeve, thank you very much for your testimony.

I'll just make a very brief comment. We appreciate your offer of trying to work with us to form legislation that the President could sign and that meets the requirements of the Budget Act of 1990. I think we will do that and hopefully have it ready in the next couple days.

I know you also have some other requirements on the budget negotiations coming out of your office as well, but I think this is critical. We would love to have this in place before December 15th, in the event a shutdown occurs. I am increasingly optimistic that will not happen on a global level, but it's still a possibility, as I said earlier.

But more importantly, this is important for the city over the long term if they are to attract and maintain employees; they must let them know that they're not going to be subject to the short-term whims of a Congress and a President not agreeing. So over the long term, this is important.

Once again I appreciate Ms. Norton's proactive response in bringing this legislation to the fore.

Let me ask if there are any questions.

I'll start with Mr. Clinger.

Mr. CLINGER. No questions.

Mr. DAVIS. Ms. Norton, any questions?

Ms. NORTON. Thank you very much, Mr. Chairman.

Mr. DeSeve, you have testified, as I read it, or as I heard you, that during a lapse period the spending should be restricted by a pro rata cap, which is of course what we're operating under right now, and what has tied the hands of the CFO.

Why in the world would you think a pro rata cap was required when we have a control board, we have a CFO, we have a requirement of a financial plan, and we have the Congress up here watching every move that the District makes? I mean, when will it end?

What good does it do to put another cap on the District when this hearing is about freeing the District to spend its own money with a CFO in place, obligated under financial authority statute, under the obligation statutes of the District of Columbia, and under the District statutes not to over obligate? Would you please explain that to me?

Mr. DESEVE. Yes, ma'am. The intent is to be consistent with current congressional oversight of spending during such periods of hiatus.

We have, in the continuing resolution and elsewhere, and the District itself engages in the practice of apportionment to its agencies. The notion is to give guidance to the District as to the Congress' intent.

Ms. NORTON. Mr. DeSeve, what is the control board for? I mean, one of the problems we have up here and we've had up here recently is the control board has been undercut. They were given a very broad mandate.

It said, look, look at these people every day and don't let them move 1 inch to the left or right. Now you're telling me that this Congress ought to also do that, in effect?

Is that really what you want? You want two cops rather than one cop, and God knows how many other cops are running around looking at the District?

Mr. DESEVE. No, ma'am.

Ms. NORTON. You really think this committee has time? Would you like to also be a cop, would you like the OMB also to calibrate this and to watch them every day?

Mr. DESEVE. No, ma'am, that certainly is constitutionally reserved for the Congress. Our hope here is that the control board and the city could be informed and noticed of the intent of Congress as to the overall pace of District spending.

Not to be a cop, but to provide guidance and guidelines so that the authority and the District as they work to put a spending plan together would recognize the fact that it was Congress' intention that this be done in a normal, routine way during the year.

Ms. NORTON. With all due respect, I think that is a complete insult to the control board. The control board has been given precisely that mandate. Now you're saying, hey, Congress, in your piece of legislation, to make sure that the control board does what you have told it to do, you put your own pro rata cap on them.

We have just had a big fight up here about whether or not the control board was to monitor the District and make sure it spent by appropriation cap or whether the Congress was to do it, and the way we settled that fight was to say, look, control board, you do it.

Now you are saying that the Congress in addition ought to, without the kind of information that the control board has, without the kind of close surveillance that it does, ought to come up with a figure on its own to superimpose on the control board as to a pro rata cap. Understand we're talking about pro rata cap.

I want to know why that is necessary in light of the bill that you helped us to draw and which you were very clear that there was ample—there was ample oversight by the control board of the District, in light of the District's own officers who have that obligation, I want to know why you would superimpose the Congress on top of all of that?

Mr. DESEVE. At this point, the financial responsibility authority does not have apportionment responsibility, and might not be asked by the Mayor to approve apportionment during a hiatus period.

Ms. NORTON. So it is your position that the Financial Control Board, which has daily oversight of the District, if it desires, could not intervene and say on its own: In light of the fact that you have a partial appropriation, we say to you should only spend at a certain rate to make sure you don't run out?

Because I want to tell you something, they're already doing that, they're already doing that, they're already holding the District's money in light of the rationing that is taking place.

They're being extremely cautious and conservative. So I submit to you that what you're saying, that we ought to do to make sure they do their job, they're already doing and they have already interpreted to be their responsibility.

Mr. DESEVE. They may have done that, Madam Norton, but my real question is whether we gave them any guidance on a shut-

down and hiatus situation in the legislation. We certainly didn't contemplate that, and I think to make more explicit the responsibility of the Congress—I'm sorry, the intention of the Congress and the responsibility of the control board in this situation, is our suggestion.

Ms. NORTON. Well, I respectfully reject your suggestion, because you have not answered my question. And that is, what does it add in the way that is not already down there? Either you ought to put a control board in place and let them do their job, or you ought to substitute this committee and the Appropriation Committee for the control board.

And you know what? We haven't calibrated that right yet. And the effect of it has been to undercut the control board and to tell them: Watch out what you do, because what you're doing despite this broad statute, may not be right.

Mr. DAVIS. Will the gentlelady yield for just a question?

Ms. NORTON. Yes, sir.

Mr. DAVIS. One of the difficulties is that this legislation is not written just for this time period. This legislation is written for a period after the control board expires, which we all hope it will expire as soon as possible because we want to get the city back going. So you have to look at the context, not just with the control board, but even after it expires.

And the comments make a lot of sense if you didn't have a control board. I understand the frustration having it, and just want to clarify. This legislation is written for the post-control board period as well.

Ms. NORTON. Well, the chairman's comment is a fair comment, in which case any language of the kind you have ought to, in fact, indicate that we're talking about after there's no control board, instead of piling on.

Mr. DESEVE. That would be fine, we would be delighted to give the authority the responsibility for apportionment during a control period and beyond the control period have that in some pro rata fashion, that would be a very good solution.

Ms. NORTON. And let me also say this, that during the control period, one of the things we're trying to do is help the District get its legs. We don't want to put the District in the position where it has been so controlled so that when, in fact, the control board leaves, it's like a cripple that can't operate because it's never been given the latitude to act independently.

I must say, I'm very disappointed that in light of a control board, you come up here with some kind of pro rata cap.

Now, let me ask you about the notion of installments of the Federal payment. I can certainly understand the notion of not scoring. That stops everything cold up here. But I want to—I look at your testimony, when you say that the administration does not support automatically appropriating pro rata shares of the Federal payment.

Are you aware that every Federal agency and the District of Columbia has been apportioned a pro rata share of its Federal payment right now?

Are you saying automatic pro rata shares?

Mr. DESEVE. That is correct, automatic. It is done under the continuing resolution at this point.

Ms. NORTON. OK, so you don't oppose at least putting us in the same position as a Federal agency?

Mr. DESEVE. Not at all. In fact, we think it might be other than pro rata. This year the District's payment was front loaded to understand the obligations that it had to undertake.

Ms. NORTON. Which brings to mind the latter part of the statement, because this would diminish congressional oversight and review of direct Federal funds to the District, as well as potentially impair the repayment of advances to the Federal Treasury.

First, let me say that once the Federal payment is apportioned, there is no direct oversight, and should not be. That's not what apportionment is about, Mr. DeSeve. Apportionment is about the fact that the full appropriation will not be handed out until the full appropriation is handed out.

We do not apportion on a basis of a certain percentage in order for the Federal Government to increase its oversight over the State Department, so we certainly don't do that in order to increase its oversight over the District. So I reject that as a basis for doing it.

It looks like this part of the testimony was simply meant to find as many reasons to throw in as you could. And it says as well as potentially impair the repayment of advances to the Department of Treasury.

Well, that makes me—I don't know whether to cry or laugh. Because most of the District's appropriated Federal payment went to pay you folks, rather than to pay for services in the District of Columbia, because you made it so. So the Congress, in apportioning the Federal payment, said, look, $147 million, that's going to go straight to the Treasury, and then it went down a list of other things it had to pay in terms of vendors and straightjacketed how the Congress would use its own—how the Federal payment, I'm sorry, would be used.

So I don't—I cannot take seriously your notion that the reason you are against a pro rata apportionment of the Federal payment is to make sure you get your money. Because you know good and well that the first thing the Congress is going to do is to make sure you get your money. You, of course, are the Treasury of the United States.

And what I am challenging you to do is to help us with the following problem. The District is cash poor at the time of the beginning of the fiscal year, and so it eats up its Federal payment very early. And what eats it up is not handing out money to District employees or to District residents.

What eats it out is repayment of loans, payment to Metro, payment to the pension fund, so that we will not then have interest and penalties for not meeting our debts. So that what I challenge you to do is to help us so that we don't have the following situation arise.

The District, you can spend your own money, of course that's really an obligation authority, and you don't have any money now. So what you really need is your full Federal payment, which you usually spend very quickly in perhaps that first month. So if we do not in advance pro rata some portion ever the Federal payment,

then of course what we got to do is to come up here, wait until we can get the Appropriation Committee together, it's already off into large cosmic issues facing the Federal Government, and we may be left right where we are now, that sometime during the month or 2-month, or whatever, somebody gets around to appropriating some cash for the District of Columbia.

And I raise this for this reason; when, in fact, Congress had to figure out what to do for politically sensitive matters like Social Security and the like, somehow it managed to get something through for them. I was waiting in line and said, hey, while you're in that line of things that must go through, would you let the District through that line? And you know what?

We weren't even allowed to stand in that line, so that some money was let go and I think the continuing resolution overcame it and everybody was able to get out, but some money was let—veterans' payments, Social Security, because that affected Members.

And I can understand that. No Member is affected by the D.C. appropriation except me. And I was standing in that line and they closed the gate and said, huh-uh, not you, Eleanor. Your folks are not the Veterans Administration, and your folks are not Social Security, so you can't get in this line.

And my challenge to you, is how do I make sure that the District gets some cash during this period when its appropriation has not been funded?

Mr. DESEVE. This is exactly our concern with proration. To the extent that proration does not allow the early funding of obligations of the District, but rather funds them on monthly basis, it defeats the exact problem that you were trying to address.

Mr. DAVIS. If the——

Ms. NORTON. How does it——

Mr. DAVIS. If the gentlelady would yield for a second, maybe I could clarify?

Isn't it true that the city has gotten over half their payment now?

Mr. DESEVE. That is correct, Mr. Davis.

Ms. NORTON. Because the Congress has acted. Suppose it hadn't?

Mr. DAVIS. The point is if Congress hadn't acted and the Federal payment were prorated, the District would not have had access.

Mr. DESEVE. That's correct. It would have gotten approximately $50 million, $55 million a month. That's our point, we'd much rather see it front loaded to the District to match its obligations than prorated.

Ms. NORTON. That is no answer whatsoever. My bill will—that is no answer.

Just a second, Mr. Chairman. We're talking about a minimum one-twelfth. What is this, I'm sorry, I really want to give you more, and that's why I'm against your kind of proration?

Mr. DESEVE. Yes, ma'am.

Ms. NORTON. Because, in fact, the Congress can always give it more. I just want to make sure the District isn't left with any cash. If you want to have it more prorated, let me know what the figure is, because I'd be glad to accommodate you.

Mr. DAVIS. If the gentlelady would yield again?

Let me just add, that this would only kick in if Congress and the President were not able to agree. If you have a pro rata and Congress couldn't agree, there would be no incentive for us to kick in more money.

The point is we're all trying to work this problem out and work in the city's interest.

Mr. DeSeve, we're looking forward to the administration working with us to draft language that the President can sign and that we can get through both bodies in a timely manner. We will continue this discussion to make sure that the city's interests are met.

I understand Ms. Norton's frustration about the city getting its money on time, but I really believe, as I hear his comments, that a strict pro rata basis, and this may not be the intent of the legislation, doesn't give Congress the incentive to give the city more money upfront and——

Mr. DESEVE. That's exactly my point, Mr. Davis.

Mr. DAVIS [continuing]. Under a strict pro rata the city would not have the same amount of money as they've already gotten this year.

Mr. DESEVE. That is correct. That's exactly our intent, Mr. Davis.

Mr. DAVIS. I think we're all on the same team. We may be talking differently to get there. At least that's the Chair's impression.

Ms. NORTON. Mr. Chairman, I just want to clarify.

Is the problem the scoring problem or the problem that we want to make sure there's enough money, and incentive to give enough money? Which is the problem?

Mr. DESEVE. The way the bill is structured, the problem is being able to give the District enough cash upfront if the proration is indeed an equal monthly proration, which is suggested in the bill.

Ms. NORTON. Yeah, that certainly was——

Mr. DESEVE. We want to make sure that the District has enough cash to operate. That's why last year we encouraged the clarification of the principles of lending from the Treasury. That's why the administration worked hard to get $147.5 million of cash from the Treasury into the District.

We're currently in those same kinds of lending discussions so that we can keep the liquidity of the District such that they can meet payroll and pay their obligations.

Ms. NORTON. Just could I ask Mr. DeSeve before he leaves, do you have any suggestions then as to how this might be worded so as to meet the point you raise?

Mr. DESEVE. Yes, we do. We'd like to sit down and work on language with the committee staff for the markup.

Ms. NORTON. I just want to clarify, the problem is not scoring, the problem is to make sure we don't shortchange the District.

Mr. DESEVE. We have not taken any position on scoring of the bill. We don't think the bill scores at all. We think that the continual appropriation history that the District payment has had would alleviate any scoring concerns that anyone would have.

Ms. NORTON. Thank you, Mr. DeSeve.

Mr. DAVIS. Thank you.

Before I let you go, I would ask unanimous consent to enter into the record a letter from the Congressional Budget Office to the sub-

committee, on H.R. 2661. A copy of the letter is in the Members' packets.

Without objection, so ordered.

[The information referred to follows:]

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

June E. O'Neill
Director

December 5, 1995

Honorable Tom Davis
Chairman
Subcommittee on the
District of Columbia
Committee on Government
Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you requested, the Congressional Budget Office has reviewed H.R. 2661, the District of Columbia Fiscal Protection Act of 1995, as introduced in the House of Representatives on November 17, 1995. Based on our preliminary analysis, we estimate the bill would increase direct spending by about $534 million in fiscal year 1996, assuming enactment of H.R. 2661 by January 1, 1996. The budgetary effect of this legislation on subsequent fiscal years is unclear. CBO expects that H.R. 2661 would be interpreted as providing direct spending in future fiscal years as well, but the amounts are uncertain. Because the bill would increase direct spending, pay-as-you-go procedures would apply.

H.R. 2661 would provide for funding to the District of Columbia in the event that a new fiscal year begins and funds have not been provided to the District in its regular appropriations bill. Section 2 would permit the mayor of the District, with prior written notification to the District of Columbia Control Board, to obligate or spend nonfederal funds on the continuing operations of the District government. Section 3 would provide federal funds to the District for any year for which the annual federal payment (if authorized) has not been appropriated by the first day of the fiscal year. At the beginning of each month for which the regular appropriation has not been enacted, the bill would appropriate one-twelfth of the lower of the annual payment proposed in the House-passed appropriations bill, the amount proposed in the Senate-passed appropriations bill, or the amount appropriated in the previous fiscal year.

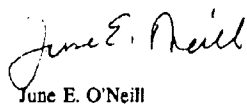
Under H.R. 2661, the appropriation to the District would effectively become a permanent appropriation. Thus, even though the bill to make appropriations for the District in fiscal year 1996 has not been enacted, the federal government would still be required to fund the District for the remainder of the year. Based on the amount proposed in the House- and

Honorable Tom Davis
Page 2

Senate-passed appropriations for fiscal year 1996 ($712 million--$70,000 less than the 1995 appropriation), this bill would provide funding of about $534 million for the remaining nine months of the year. Enactment of H.R. 2661 also would create direct spending authority for future years, but the amounts would depend on appropriations action this year and in the future.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and John R. Righter, who can be reached at 226-2860.

Sincerely,



June E. O'Neill
Director

cc: Honorable Eleanor Holmes Norton
Ranking Minority Member

Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform and Oversight

Honorable Cardiss Collins
Ranking Minority Member
Committee on Government Reform and Oversight

Mr. DAVIS. I will not read the entire letter, but there are two excerpts from the first paragraph that are very important.

Quote: "We estimate that the bill would increase direct spending by about $534 million in fiscal year 1996." And, quote: "Pay-as-you-go procedures would apply." Now these are—unquote. These are significant problems and I raise them at this time because I want to hear OMB's position on them.

Mr. DeSeve, do you agree that pay-go applies to Section 3?

Mr. DESEVE. We'd like to study the CBO letter. We haven't seen it. We've heard references to pay-go. Again, looking at the appropriations history, we don't believe this triggers a pay-go event in any way. We can't see——

Mr. DAVIS. We'd be interested in your comments and then get back with CBO.

Mr. DESEVE. We'd be happy to. As I said, we haven't seen the letter, we'll be prepared to make comments.

Mr. DAVIS. OK.

Also, Mr. DeSeve, CBO reads the Federal payment automatic appropriation is open-ended, without a provision for subtracting any amount already paid. In this case, where the District has already received more than $300 million of the fiscal year 1996 payment through the two continuing resolutions that have been in effect, if the bill were passed in its present form and a new continuing resolution were not put in place, then Treasury would automatically send the District a check on January 1, and every month thereafter, for one-twelfth of the fiscal year 1996 Federal payment.

The result could be that the District would receive a Federal payment because of the advances of more than $900 million in fiscal year 1996.

And while I am certain that my colleague from the District would be happy to accept this money and the Mayor would be happy to have it, I'm equally certain that this was not an intent to create such a situation.

You also see a problem here where the language is not limited and does not include provisions to adjust automatic appropriation according to the amount already disbursed.

Mr. DESEVE. Honestly, we didn't look at that. But I think if there is a concern, I think it's easily clarified and we'd be happy to work with you to do that.

Mr. DAVIS. I believe that is the interpretation as to how pay-go——

Mr. DESEVE. Is that how they got pay-go?

Mr. DAVIS. If you could look at it, help clarify it, work with Ms. Norton's office and the committee staff as we redraft this, we'd like to try to remedy the problem here.

Once again, I appreciate you coming forward, the administration's willingness to step up to the plate on this issue, and give this the concern and, frankly, the priority it deserves.

Mr. DESEVE. Thank you very much, Mr. Chairman.

Thank you, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. DeSeve.

Mr. Chairman, are you going to call the next witness? Because I would like leave to enter into the record three editorials concerning the shutdown of the District.

Washington Post editorial of Saturday, November 18, 1995; of December 1, 1995; and the Afro-American editorial of November 25, 1995.

Mr. DAVIS. Hearing no objection, it's so ordered, will be entered as part of the record.

[The information referred to follows:]

A26 SATURDAY, NOVEMBER 18, 1995

The Washington Post

AN INDEPENDENT NEWSPAPER

Get D.C. Out of the Shutdown

THE DISTRICT of Columbia—cash-strapped and financially distressed long before the federal government shutdown began—is now trapped in the middle of this battle and is being pointlessly punished. The city can't even spend its own funds to keep itself running properly because D.C. budget money has to be appropriated by Congress. Roughly 85 percent of the city's purely local budget comes from locally raised taxes and fees; yet, without specific action by Congress signed by the president, the city is unable to put employees to work—even though it will probably be stuck paying them eventually for not working. How's that for congressional oversight of the District's finances?

Even the control board that was established by Congress and the White House earlier this year is calling for relief, noting that the local financial freeze is now compounding the city's financial mess. The chief financial officer—as set forth in the control board legislation approved by this Congress without dissent—is right now in an untenable position, with no orderly way to make payments such as the local shares of welfare checks. How does the city pay without knowing how much it has for what fraction of a month or week? How do local officials avoid over-obligating, which is precisely what got the city in big trouble before?

There's a way out. Congressional approval of a special continuing resolution—covering the portion of the District budget that is raised locally and a prorated share of the annual federal payment as previously agreed to—would allow city officials to put employees back on the job and would permit critical financial decisions such as completion of a multi-year plan to move on schedule. D.C. Del. Norton has been meeting with leaders in both houses of Congress and with White House officials to generate support. If a resolution can be moved along promptly, it could be approved today, which would allow the city to open for business on Monday. While the House and Senate have not reconciled their versions of the full D.C. budget, the continuing resolution could be based on the lower budget total in the House-passed version.

To avoid this kind of calamity in the future, Ms. Norton is proposing separate, permanent legislation that would apply in the absence of a signed appropriation at the beginning of a fiscal year. It would allow the District to obligate its own revenues equal to the lowest existing authorized spending level, and would authorize an automatic apportionment of the annual federal payment.

House Speaker Gingrich, D.C. appropriations subcommittee Chairman Jim Walsh and other congressional leaders who seek to bring financial order to this city should see the importance of separating the local functions as well as the responsibilities of the control board and chief financial officer from federal stalemates. If their concern for the District's financial stability is genuine, they should press for immediate enactment of a continuing resolution as well as for protections against any more situations like this.

THE VOICE OF BLACK AMERICA SINCE 1892

EDITORIAL

John J. Oliver, Jr.
Chairman of the Board/Publisher

Frances M. Draper
President

Frances L. Murphy II
Washington Publisher

The Shut Down

Throughout our history great wars have been fought and countless numbers of people died because a handful of men could not agree on something that one hundred years later seemed to make little sense.

Such is the situation experienced here in Washington, D.C. last week when our federal government was shut down because President Clinton and Congress could not come to an agreement on the federal budget.

As a result, many hard-working federal employees— all political parties, classes, ethnicities and ages -- were placed on an involuntary week-long "vacation". And because the District is the only municipal government whose local funds are controlled by Congressional appropriations, District government workers were also affected. But that's another issue. From tourism to trash collections, everyone who resides in the District, or had the unfortunate opportunity to be visiting here during that time, had to adjust to our government's communication breakdown.

But now that President Clinton and Congress "are friends again" and have agreed upon a seven-year budget plan (don't forget that compensation issues have not been resolved), everything can go back to normal. Thanks a lot! (Hate to think what will happen the next time one of our "distinguished" representatives throws a tantrum.)

Mr. DAVIS. And now I am pleased to call our next distinguished witness to testify, Dr. Andrew Brimmer, the chairman of the District of Columbia Financial Responsibility and Management Assistance Authority.

Dr. Brimmer, I commend you for the strong and effective leadership you're providing in accordance with the law, which passed through this subcommittee last spring. As the main sponsor of that legislation, which was really bipartisan, I want to start by saying that the authority is correct in its interpretations of the legislation and the power it confers on you and the CFO and the Inspector General.

I encourage you to persist and I'm confident that you will. I'm not surprised that the authority is now universally referred to as the control board, and I think both names are appropriate, though we get many calls from people unable to get your phone number because they are asking the information operator for the number of the control board. But I have a feeling you're not suffering from a lack of phone calls.

I also want to say that although we have all the key people here today, this is not a hearing on the authority or that legislation or to address questions that have been raised about its implementation. The subcommittee will conduct an oversight hearing on that very soon.

I intend to address a number of concerns at that time. However, that time is not today and I would encourage the Members and the witnesses to try to confine their remarks to the very important subject that is the subject of this legislative hearing, which I know the control board and the city and the delegate from the District, I think, are all, and the administration, are all supportive of.

As you know, Dr. Brimmer, it's the policy of this committee that all witnesses be sworn before their testimony.

Would you please rise with me and raise your right hand?

[Witnesses sworn.]

Mr. DAVIS. Thank you very much.

You can be seated and the subcommittee will carefully review any written statements you care to submit, Dr. Brimmer.

STATEMENT OF ANDREW BRIMMER, CHAIRMAN, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY, ACCOMPANIED BY JOHN HILL

Mr. BRIMMER. Thank you very much, Mr. Chairman.

And I have with me Mr. Hill, who is the executive director of the Authority. And I would hope that if some issues arise where a response from him would be appropriate, that would be acceptable.

Thank you for inviting me to testify today on H.R. 2661, the District of Columbia Fiscal Protection Act of 1995 that would permit the District to spend its own funds when the Congress has not enacted a budget for the District of Columbia.

The recent closures of large portions of the District government because of the Federal budget impasse resulted in furloughs which cost the District millions of dollars in lost productivity. The city's critical financial condition would be aggravated by any more such actions.

The Authority supports the concept of this legislation. However, we do have concerns about the broad nature of the spending authority provided for in the present draft.

Before I discuss the legislation, our views on its benefits and some of our concerns, I want briefly to outline the District's sources of revenue and the relatively small portion comprising the Federal payment.

Just 13.5 percent of the District's $4.9 billion in revenue comes from the $660 million of Federal payment. The District's local taxes and fees for services generate $3.3 billion in revenue or 67.3 percent of the total.

The remaining $960 million, or 19.6 percent, stems from Federal grants, money that all jurisdictions receive. Nearly half of the District's Federal grants come from the Federal portion of Medicaid payments.

The figure below, which is in my prepared text, depicts the District's primary revenue sources. This bill contains two major provisions that authorize certain actions when the Congress has not approved a budget for the District after the fiscal year has begun.

First, Section 2 would allow the District to obligate and expend its funds without an appropriation subject to certain limitations. And Section 3 would authorize the automatic monthly apportionment of the Federal payment. Specifically, Section 2 would allow the District to obligate or expend general funds and other revenues at a rate no greater than what were spent in the previous fiscal year.

If the House or Senate has passed an appropriation bill for the fiscal year, then the District may spend funds at a rate which is the lesser of the House bill, the Senate bill or the previous fiscal year. The section also would require that the Mayor notify the District of Columbia Financial Responsibility and Management Assistance Authority in a control year of any obligations and expenditures under the provisions of this act.

Section 3 calls for an automatic monthly appropriation of the District's Federal payment during a period in which the District does not have an appropriation. The monthly automatic appropriation would be one-twelfth of the lesser of the amount approved by the House, approved by the Senate, or the amount appropriated in the previous fiscal year. This legislation would allow the District to continue to function even though an appropriation has not been approved.

Last month, many city functions ground to a halt as the Federal budget impasse continued. Nearly 15,000 employees were furloughed, resulting in at least $7.3 million in lost productivity. Trash in the city piled up. Business licenses were not issued. Motor vehicle services were suspended and other so-called nonessential functions were not carried out. Other not quite so visible functions were also not carried out.

For example, District headquarters and agency budget analysts were nearly deemed nonessential. This delayed critical work on the development of the District's 1996 and 1997 financial plan and budget; both needed to provide the city's fiscal recovery.

Although the Authority supports the concept of this legislation, we believe some modifications are necessary to maintain discipline

in potential spending and to ensure that the Chief Financial Officer is the key official making financial management decisions.

This legislation would allow the District to obligate or expend all funds without an appropriation. We agree that the District should be allowed to obligate or expend an amount equal to all locally generated revenue, such as local taxes or local fees. However, we believe the District should not be able to obligate or expend amounts equal to the Federal payment or Federal grants which have not been appropriated.

Under this legislation, it is possible for the District to obligate against funds that it may never receive if the financial appropriation bills—if the financial appropriation bill reduces the amount of the Federal payment or a Federal grant.

Attachment 1 to my statement, Mr. Chairman, outlines an example that demonstrates how the District might be—the legislation might impact the District.

I would hope I could file that for the record, I will go over it if you wish, Mr. Chairman.

Mr. DAVIS. Without objection so ordered. If you want to take a minute, that would be fine.

Mr. BRIMMER. Thank you.

We also have other concerns about the draft legislation. Another part of Section 2 requires the Mayor to notify the Authority of all obligations and expenditures under the provisions of this act. We strongly support the need for such reporting but believe it should be clear that the Chief Financial Officer should prepare the notification that the Mayor submits to the Authority.

The District of Columbia Financial Responsibility and Management Assistance Act of 1995 and as Public Law 104–8 clearly stipulated that the CFO is to be a key official in the District responsible for the fiscal affairs of the District. Requiring that the reporting of our obligations and expenses be prepared by the CFO and then submitted by the Mayor ensures consistency with intent of Public Law 104–8.

We also have concerns about Section 3 which would automatically release the Federal payment in monthly increments when there is no appropriation. Allowing expenditure of Federal funds without an appropriation raises several fundamental questions.

First, there does not seem to be sufficient justification to alter the historical practice of expending Federal funds only when they have been appropriated. In addition, although the legislation sets forth a formula for determining these monthly allocations, there is no guarantee that any of these amounts will be finally congressionally approved Federal payments. As a result, we do not support this section as currently drafted.

In summary, the Authority supports the broad intent of this legislation. However, we believe the legislation should be amended: One, to prohibit the obligation or expenditure of funds equal to the Federal payment or Federal grant without appropriation; and two, to make it clear that the CFO should prepare the report to the Authority of planned obligations and expenditures under this act.

With the new budget crisis looming, this legislation is urgently needed. I want to repeat that. With the new budget crisis looming, this legislation is urgently needed. The District can ill-afford to

shut down any of its services again which would unnecessarily waste more District resources.

That concludes my statement, Mr. Chairman and Mr. Hill, and I would be glad to respond to questions that you or other members of the subcommittee may have at this time.

[The prepared statement of Mr. Brimmer follows:]

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

STATEMENT OF THE CHAIRMAN

Dr. Andrew F. Brimmer

Before The

Subcommittee on the District of Columbia
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C.

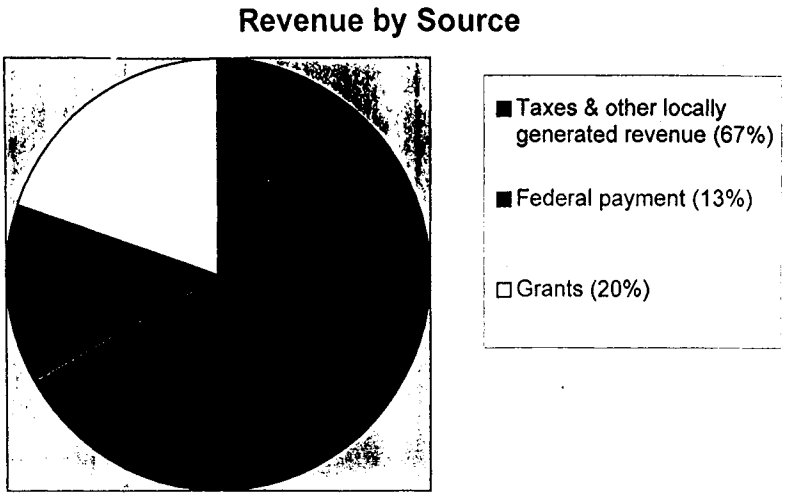
December 6, 1995

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify today on H.R. 2661, the District of Columbia Fiscal Protection Act of 1995, that would permit the District to spend its own funds when the Congress has not enacted a budget for the District of Columbia. The recent closure of large portions of the District government because of the Federal budget impasse resulted in furloughs which cost the District millions of dollars in lost productivity. The City's critical fiscal condition would be aggravated by any more such actions.

The Authority supports the concept of this legislation. However, we do have concerns about the broad nature of the spending authority provided for in the present draft.

Before I discuss the legislation, our views on its benefits, and some of our concerns, I wanted briefly to outline the District's sources of revenue and the relatively small portion comprising the federal payment. Just 13.5 per cent of the District's $4.9 billion in revenue comes from the $660 million federal payment. The District's local taxes and fees for services generate $3.3 billion in revenue, or 67.3 per cent of the total. The remaining $960 million (19.6 per cent) stems from federal grants--moneys that all jurisdictions receive. Nearly half of the District's federal grants comes from the federal portion of Medicaid payments. The figure below depicts the District's primary revenue sources.



The District of Columbia Fiscal Protection Act of 1995 (H.R. 2661)

This bill contains two major provisions that authorize certain actions when the Congress has not approved a budget for the District after the fiscal year has begun. First, Section 2 would allow the District to obligate and expend its funds without an appropriation subject to certain limitations; and Section 3 would authorize the automatic monthly apportionment of the federal payment.

Specifically, Section 2 would allow the District to obligate or expend general funds and other revenues at a rate no greater than what was spent in the previous fiscal year. If the House and or Senate has passed an appropriation bill for the fiscal year, then the District may expend funds at a rate which is the lesser of the House bill, the Senate bill, or the previous fiscal year. The section also would require that the Mayor notify the District of Columbia Financial Responsibility and Management Assistance Authority (in a control year) of any obligations and expenditures under the provisions of this act.

Section 3 calls for an automatic monthly appropriation of the District's federal payment during a period in which the District does not have an appropriation. The monthly automatic appropriation would be one-twelfth of the lesser of the amount approved by the House, approved by the Senate, or amount appropriated in the previous fiscal year.

The Benefits of the Legislation

This legislation would allow the District to continue to function even though an appropriation has not been approved. Last month, many City functions ground to a halt as the federal budget impasse continued. Nearly 15,000 employees were furloughed, resulting in at least $7.3 million in lost productivity. Trash in the City piled up, business licenses were not issued, motor vehicle services were suspended, and other so-called "non-essential" functions were not carried out.

Other--not quite so visible--functions were also not carried out. For example, District headquarters and agency budget analysts were nearly all deemed non-essential. This delayed critical work on the development of the District's 1996 and 1997 financial plan and budget--needed to provide the City's fiscal recovery.

Concerns About the Legislation

Although the Authority supports the concept of this legislation, we believe some modifications are necessary to maintain discipline in potential spending and to ensure that the Chief Financial Officer is the key official making financial management decisions. This legislation would allow the District to obligate or expend all funds without an appropriation. We agree that the District should be allowed to obligate or expend an amount equal to all locally generated revenue, such as local taxes or local fees. However, we believe the District should not be able to obligate or expend amounts equal to the federal payment or federal grants which have not been appropriated. Under this legislation, it is possible for the District to obligate against funds that it may never receive if the final appropriation bill reduces the amount of the federal payment or a federal grant. Attachment 1 to our written statement outlines an example that demonstrates how the legislation might impact the District.

We also have other concerns about the draft legislation. Another part of Section 2 requires the Mayor to notify the Authority of all obligations and expenditures under the provisions of this act. We strongly support the need for such reporting, but believe it should be clear that the Chief

Financial Officer (CFO) should prepare the notification that the Mayor submits to the Authority. The District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8) clearly stipulated that the CFO was to be a key official in the District responsible for the fiscal affairs of the District. Requiring that the reporting of obligations and expenses be prepared by the CFO and then submitted by the Mayor ensures consistency with the intent of Public Law 104-8.

We also have concerns about Section 3, which would automatically release the federal payment in monthly increments when there is no appropriation. Allowing expenditure of federal funds without an appropriation raises several fundamental questions. First, there does not seem to be sufficient justification to alter the historical practice of expending federal funds only when they have been appropriated. In addition, although the legislation sets forth a formula for determining these monthly allocations, there is no guarantee that any of these amounts will be the final congressionally-approved federal payment. As a result, we do not support this Section as currently drafted.

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In summary, the Authority supports the broad intent of this legislation. However, we believe the legislation should be amended (1) to prohibit the obligation or expenditure of funds equal to the federal payment or federal grants without appropriation and (2) to make it clear that the CFO should prepare the report to the Authority of planned obligations and expenditures under this Act.

With a new budget crisis looming, this legislation is urgently needed. The District can ill-afford to shut down any of its services again--which would unnecessarily waste more District resources.

That concludes my statement. Mr. Hill and I will be glad to respond to any questions that you or other Members of the Subcommittee may have at this time.

Attachment 1

Example Illustrating How Legislation Might Work

This example assumes the following:

- The District begins a fiscal year without a federal appropriation
- The House approved a $5 billion budget
- The Senate approved a $5.2 billion budget
- The previous year's appropriated budget totaled $5.1 billion
- Estimated District revenue is $5 billion.
- Federal payment not appropriated equals $660 million.
- Federal grants not appropriated equal $100 million.

This legislation, as currently drafted, would allow the District to obligate or expend $5 billion, the lower of the House approved, Senate approved, or the previous year's appropriated budget. We believe the amount that could be obligated is $4,240 million, and the amount that should not be obligated is $760 million. The latter figure consists of the amount of the federal payment and grants not yet appropriated.

The following table illustrates the amounts that could be obligated--and the amounts that should not be obligated--under adjustments to H.R. 2661.

Description	Amount
Revenue	$ 5,000
Federal payment not appropriated	$ 660
Grants not appropriated (estimated)	$ 100
Revenue available	$ 4,240
Expenditures approved by the House	$ 5,000
Amount that could be obligated	$ 4,240
Amount that could not be obligated	$ 760

Thus, 15 percent of the budget could not be obligated

Mr. DAVIS. Thank you very much.

I am going to just ask a couple questions early on. Let me make one comment. This is just how one Member feels about the whole Federal shutdown. I thought the whole thing was dumb, and I thought shutting down the District, using even its own money, was dumber. So you can say it is dumb and dumber. They had a movie after it.

I think that aptly describes what happened up here. But hopefully some good will come out of it all the way through. I mean, I think there is a silver lining here and if we can get a budget agreement, if we can get some legislation to help the District in the future out of this and protect it, some good can come out of it all.

I appreciate seeing the control board up here with the Mayor and the White House all supporting the intent of this legislation, and I think when Ms. Norton put this forward, she put forth the strongest legislation she could for the city. Obviously, it's met some resistance if we are going to move this legislation through and we are going to try to in a very constructive way address the concerns that have been raised by other Members of Congress and the administration. I think we can do that and still get the job done. So I appreciate you being here.

I had just a couple questions. If the District follows the Federal example and pays its employees for the 4 days they didn't work, isn't that going to put the District even further behind than they were before? I am not advocating that the District uses this as an opportunity to cut costs, but it will have spent $7 million for work that wasn't conducted.

Now, I will say the Federal Government is doing the same thing and we probably are in greater debt than the city, so I want to just preface this by putting it in appropriate perspective. This is one of the difficult situations we put the city government in because of our action up here.

Mr. BRIMMER. Yeah, Mr. Chairman, your characterization is one I share. I estimated in my statement $7.37 million and thereabouts the cost of that. But strictly on the basis of equity, I believe it should be done.

If the Federal Government were not doing it, then I believe it should not be done for District employees. But given the situation where it is being done, I think it should be done for the District employees and thus that's a part of the unnecessary cost, unnecessary burden that is being borne. And it does make the District's—the achievement of its long-run goal of improving its finances more difficult. But again, I think it should be done.

Mr. DAVIS. It is ironic that we are up here trying to help the city balance its budget, trying to balance our own and these actions over the short term have increased our deficit at the Federal level and the city's. So you lose track of that sometimes in the heat of the battles and I think there's a blame on both sides of Pennsylvania Avenue and hopefully we can avert that December 15th.

But in the future, I think enacting legislation of the type introduced here can, at least from the city's perspective, allow it to go on and conduct its business. They were clearly, you know, unintended victims of this and we are just trying to make sure that the next time around the city's going to get treated with the same kind

of respect every other city in this country gets and that is to spend its own locally raised money for its own priorities.

Mr. BRIMMER. Yes.

Mr. DAVIS. Thank you very much.

Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman.

And may I take this opportunity to thank Mr.—Dr. Brimmer who has been put really in the most extraordinarily difficult situation coming to manage the control board between two budgets already submitted with a very tough Congress looking over your shoulder, not always giving you the benefit of the doubt, but if I may say so, having the greatest respect for you and the work you are doing and I know I speak for both sides of the aisle when I say that.

And let me say the same for Mr. Hill, who has always made himself available to me and to the residents of the District and who has brought great background, knowledge and sensitivity to the problems of the District. I hope that in light of yesterday's breakdown in communication, the earlier precedent you had set of good communication will continue and will heal that quickly.

Your testimony is very helpful to us as we try to sort out how to do this thing right and to be most helpful to the District.

I can understand Dr. Brimmer's testimony on page 4 that if we, as it were, pre—pre-apportion the Federal payment or any part of it, it might not be appropriated at all. I suppose that is conceivable when you consider this Congress and you consider that it is the District we are talking about.

The position I think you understand best of all is that the District, as it turns out, on October 1st of every year, funds itself in a particularly cash-poor position, so much so that it eats up the Federal payment right away and almost all for obligations that must be met as opposed to frivolous things that—assuming it never did that.

I would very much like your help in figuring out a way to assure that the District gets a Federal payment without being put in the same position it was this year. If you had to wait for cash, even though you could obligate, since you only have the obligation authority, don't have a lot of cash, you could miss a Metro payment, you could miss a pension payment, you could mention—the Federal Government will see that they get theirs. You probably won't miss a Treasury payment but you could miss some other loan payment.

Given the conceptual difficulty of arranging for a payment in advance, can you think of any way that we could avoid an unintended consequence of leaving the District with the ability to obligate? But as it turns out, because of the period, it becomes nothing to obligate or very little to obligate.

Mr. BRIMMER. The District could do what it did this year. It would have the capacity to borrow from the Treasury and that could be secured by the Federal payment when it arrives, and, in fact, this year it was even secured, some borrowing was secured by next year's Federal payment.

Ms. NORTON. Borrowing has already taken place during this fiscal year?

Mr. BRIMMER. Yes.

Ms. NORTON. I see. During this—since October 1st?

Mr. BRIMMER. Yes, yes.

Ms. NORTON. I see.

Mr. BRIMMER. And that was possible because the requirement is that a borrowing would have to be repaid from the Federal payment, at least that could be secured for the following year. So that was done. But I agree with you, that is an accommodation. It would be better if there were a way that they could have this ahead of time.

Now, we had some discussion about this and I am going to ask my colleague to describe the consideration we gave to it and suggest he has some suggestions how we might do it.

John.

Mr. HILL. One of the things that—one of the things that the Authority is very concerned about is the rollover that occurs every year from the previous fiscal year of bills that could not be satisfied by cash payments from the previous fiscal year. Right now, the District is carrying a substantial portion of bills that really related to last fiscal year and to fiscal year 1994 that have caused a huge drain on cash resources for 1996.

I think there are two problems that exist: The first is trying to solve or to make the District whole for past overexpenditures of resources. That will help to provide additional resources to the city.

The second is allowing the District to borrow against the 1997 Federal payment over next year's Federal payment, which is already included in the legislation, the ability to do that. So part of solving the cash problem is to bring the District whole from previous fiscal years.

Ms. NORTON. And how do you intend to recommend that be done?

Mr. HILL. Well, currently we are looking at a number of different options. We are looking at the possibility of a debt offering, the possibility of some other infusion of cash. But these are in very formative stages right now and we are still working with the District government and will be working with the Congress also on that.

Ms. NORTON. I agree with you, unless we solve that problem, I don't know how we get ever to a balanced budget because we keep rolling over debt.

Could you—we read in the papers—and this is one of the reasons that I'm concerned about the possibility of getting no Federal payment early enough to do any good, about enormous—even with the CFO in place, enormous calls on cash that the District seems unable to meet.

Would you describe the District's cash position? Is it—I mean, is there any hope even if we appropriate the full Federal payment any time soon and the District gets the ability to obligate and spend its own money, that the District's cash position will be improved in the—in the foreseeable or in the coming months?

Mr. BRIMMER. Well, let me comment on that.

Ms. Norton, the first thing is the schedule of payments, which the city has shared with us, captures a number of obligations that are already in the system that have been processed, and the amount of cash required is known. There is an additional stream of obligations of payments or what might be described as the city's bills payable, that is not registered as yet, that is not in the sys-

tem. Overall, we believe that as of the end of November, that figure was in the neighborhood of about $200 million.

John, do you have any additional information beyond that?

Mr. HILL. The—because the payment system of the District of Columbia, as Dr. Brimmer said, only records or records obligations that—and expenditures that are being cued for payment, the only ones that are currently in the system as of the end of October, it was about $238 million, I believe, that were from the past fiscal year. We are currently in the process of having an audit of accounts payable done so that we can know the total amount of accounts payable which should be released some time in December.

But as a result of the—the overspending that may have occurred in fiscal year 1995 and our estimation of the backlog of invoices being entered into the system, we think that it could be as high as $200 million.

Ms. NORTON. Dr. Brimmer, do you believe that under the existing authority were we to give—let me reframe that.

If we were to give you or the District through this bill the right to obligate its own funds, do you believe that you have sufficient authority to prevent the District from overspending in relation to the amount available?

Mr. BRIMMER. Yes, I do. The instrument for doing that, of course, would be the Chief Financial Officer. And the Chief Financial Officer has put in place a system whereby designated ceilings against which the departments and agencies can spend. I believe if he has not already announced those, they will be announced very soon. I know these—the designations have been made and I believe the Mayor or the city administrator would have plans to announce those some time in the near future.

Now, as to whether the agencies will stick within those ceilings, I assume they will, because the Chief Financial Officer would be in a position to monitor those on an ongoing basis. And I assume that if there were any indication that the agencies were, in fact, spending at a rate which would exceed those ceilings, that fact would be called to their attention and they would comply with the Chief Financial Officer's instructions to moderate that spending to keep within the ceiling. So when you say do we have the authority? The authority rests with the CFO and I think it is sufficient.

Ms. NORTON. Thank you.

He, of course, is not only responsible to the Mayor but also to you, and if you find that there was somehow a setting of ceilings in a way that did not—that did not conform to the amount available, then you of course would have the authority to deal directly with him and the city.

Mr. BRIMMER. Precisely.

Ms. NORTON. Thank you.

One more question concerning Federal grants. I noticed, Dr. Brimmer, in your testimony that you said not only—you said Federal payment, we should not be able to ob—obligating the Federal payment would mean you might be obligating in a future year something you might not get, and I allowed how with this Congress that could be true.

Now, with Federal grants, though, which you also include, you said Federal payments or Federal grants, I am assuming that that

would be automatically taken care of because Federal grants come through Federal agencies and either they have had their appropriations passed or they have had to themselves let it—let localities spend only in relation to what they have and that grants might not therefore be necessary to mention in this legislation. Could I have your comments on that?

Mr. BRIMMER. Well, Ms. Norton, in the attachment one, you will notice I set forth a table which shows the estimates. Save out of a $5 billion budget, notice that the Federal payment not appropriated, would be $660 million. But we estimate that grants not appropriated, not appropriated, would be about $100 million. And so we are suggesting that those amounts be set aside and not subject to expenditure without the appropriation, and that means that the amount available would be $4.240 million. You see what that says is that that could be obligated, $4.2 billion could be obligated, but $760 million could not, and that $760 million consists of the Federal payment plus our estimate of the grants. That is what we had in mind.

Ms. NORTON. I think this committee will have to look into, I think, how the Federal Government deals with localities and local jurisdictions when they are caught in a squeeze through the Federal grant process, because I don't understand that is something that we should be independently dealing with given what may already be in place.

Mr. HAMM. Ms. Norton, it's more a case of how the States and cities deal with the problem, not how the Federal Government deals with them because if they are able to proceed through funding sources of their own in anticipation, they are still on the hook if that grant allocation gets reduced in the final agreement.

I was going to try to make sure, though, that Dr. Brimmer's point—your point is that these would be grants not yet appropriated; right?

Mr. BRIMMER. That's right.

Mr. HAMM. Because the President has now signed the majority of the appropriations bills and you took that into account, correct?

Mr. BRIMMER. Yes. But not appropriated.

Mr. HAMM. Not yet appropriated.

Ms. NORTON. Not yet appropriated. But I did not assume that in the way in which we allowed agencies to proceed with partial appropriations we were into that level of detail as to which grants could be considered unappropriated and which grants could be appropriated.

I thought it was "X" amount of money is there, you got that amount of money, and then the agency decides how to—how to spread that money. In any case, I see the point and it's a good point. I think we have to look further into it.

Thank you very much.

Thank you, Mr. Chairman.

Mr. GUTKNECHT [presiding]. Thank you.

I have a couple of questions that I am trying to sort all this out and maybe one of them is a procedural question. But before I ask any questions, I just want to congratulate you on the work you've done. We admire the job that you're doing. We understand how difficult it is and many times we on this side of these desks don't

make your jobs any easier. And we understand you even were visited by some garbage trucks the other day and we'll have more to ask about that perhaps later.

I just want to clarify, though, in my own mind, a couple of things: First of all, you do have some reservations, and I think you have articulated them pretty well. Do you think those can all be resolved and still get this to the President's desk by the 15th?

Mr. BRIMMER. Yes, I believe so. The suggestions I have made here can be dealt with by a change of a few phrases in the bill.

Mr. GUTKNECHT. I think there is a commitment on this side to make certain we can accommodate those and I hope—I don't want to speak for Delegate Norton, but would you again emphasize for us——

Mr. BRIMMER. Excuse me, Mr. Chairman, we have some language we have drafted which would accomplish those changes and we will submit those to the committee.

Mr. GUTKNECHT. That is very helpful, yes.

Thank you.

Mr. BRIMMER. Thank you.

Mr. GUTKNECHT. Also, and just for my own edification here so I can understand this, would you again emphasize your reasons for not wanting the bill to include automatic appropriations? I mean, I'm trying to sort this all out here in my own mind.

Mr. BRIMMER. We are saying that the Federal payments, the two categories we described, the Federal payment and the grants, should not be expenditured without the appropriation, because there is a risk that the amount so expended or allocated to be spent may not come through. That is the reason, not because of taste or preferences, but because the city would be taking a risk of spending money which it ultimately may not get. That is the fundamental reason.

Mr. GUTKNECHT. So the budget negotiators could meet over the weekend of the 15th and come back with a package which would be smaller than you had anticipated.

Mr. BRIMMER. Might be. And thus the city would have gone forward making commitments to spend and then literally have the limb sawed off from under them. That is the danger.

Mr. GUTKNECHT. And that would be a danger for the whole Gekas concept that he talked about earlier in his testimony.

Mr. BRIMMER. Yes.

Mr. GUTKNECHT. Any other questions?

Ms. NORTON. No, Mr. Chairman.

Thank you.

Mr. GUTKNECHT. We want to thank you again. We hope if you have other concerns or questions, you know, keep us abreast of them and feel free to communicate with us freely about your problems. And again we appreciate the work you're doing, Dr. Brimmer, and if we can be of any help, please don't hesitate to get ahold of us.

Thank you very much.

Mr. BRIMMER. Thank you.

Mr. GUTKNECHT. I am informed that there is a vote and the chairman has gone over to vote and he will be back. In the meantime, I think we should call the next panel.

OK, now I am pleased to call our panel of local officials, the Honorable Mayor Marion Barry, and I am not sure who will be joining him; Mr. Williams, Mr. Rogers.

As you know, this committee has a policy that before anybody testifies they have to take the oath.

If you would please rise and respond.

[Witnesses sworn.]

Mr. GUTKNECHT. Thank you very much.

Let the record show that the witnesses took the oath.

I would also mention that the subcommittee will carefully review any written testimony that you would like to submit.

Mayor Barry, if you would like to talk to us.

STATEMENTS OF MARION BARRY, MAYOR, DISTRICT OF COLUMBIA; ANTHONY WILLIAMS, CHIEF FINANCIAL OFFICER, DISTRICT OF COLUMBIA; AND MICHAEL ROGERS, CITY ADMINISTRATOR, DISTRICT OF COLUMBIA

Mayor BARRY. Thank you very much.

To members of the committee, I would like to ask that my entire statement be entered into the record. I probably won't read all of it.

Mr. GUTKNECHT. Without objection, so ordered.

Mayor BARRY. Joining me is Mr. Michael Rogers, city administrator for the District of Columbia government. And Mr. Anthony Williams, Chief Financial Officer for the District of Columbia government.

Let me thank Congresswoman Norton and Congressman Davis for their leadership in holding this hearing, for a commitment to expeditiously move this bill out of subcommittee to the full committee and hopefully to the House and then to the Senate and to the President. This would demonstrate once and for all that Congress understands the unique circumstances of the Nation's Capital.

I am here to emphatically endorse the D.C. Fiscal Protection Act sponsored, cosponsored by Congresswoman Norton and Davis. We all know that there are a great many inequities and imbalances in the relationship between District citizens and the Federal Government, and most of these issues spark intense debate and philosophical controversy. But here is an issue today that should not be controversial and should provide a good opportunity for every Member to demonstrate that they sincerely care about the people who live and work in Washington.

It is not the conscious intention of anyone to purposely shut down the Federal Government, but this, of course, is a natural consequence of failure to craft legislative agreement on Federal spending policy. This bill is not about the natural consequences. It is about unintended consequences. The consequences in shutting down the Federal Government in application of the Antideficiency Act are dramatically different for local government functions, even though the Federal Government performs some direct services but not nearly as many as does the District government.

The District government, however, must use these same guidelines to alter or stop trash collections, issuance of licenses, permits, perform health and safety inspections, providing care to families

and children, delivery of home care and food to the elderly, library service to operate the city's car impoundment lot.

Local government is largely dedicated to service delivery. We have very few people who do not engage in direct service delivery in our entire work force, providing protection, regulation, education, services and care on a daily basis to citizens.

Unlike a number of Federal agencies, the D.C. government is responsible for inspecting and licensing, child care facilities, responding to child abuse complaints, issuing business and drivers' licenses, parking control, inspecting and approving construction, overseeing individuals on parole, delivering home care to sick older citizens, operating playgrounds for children, picking up trash, keeping traffic lights working and even operating a draw-span on the Woodrow Wilson bridge.

Terminating these services for even a day does not save money. It compounds problems and adds expenses as well as pain to the lives of nearly 600,000 Americans who live in our city. It also affects the Congress. It affects 19 million businesses annually, the diplomatic communities and Americans who do business with the Federal Government.

It is not reasonable that there is a connection between stopping public services for only one city in America and the legislative process of establishing national economic policy. It simply does not make sense.

As has been stated by a number of witnesses, we look at our local revenue, D.C. taxpayers, those who pay property taxes, income taxes, sales taxes and user fees make up about 84 percent of all our local revenues. The Federal payment is only 16 percent of that total local revenue. Of course, we get almost $1 billion in Federal grants like any other State with about half of that coming from Medicaid reimbursements.

Because the District of Columbia is the economic heart of one of the Nation's prime regional markets, our failure to provide services has a ripple effect beyond the immediate inconvenience. This is particularly true during the holiday season. A second shutdown would be devastating.

In addition, the shutdown adds to the District's already critical financial outlook. We are currently experiencing serious disruption in our cash-flow because of the decision to make the Federal payment to the District in smaller increments instead of the annual payment as has been traditional.

Let me say to members of the committee, I am really still upset with Mr. DeSeve's testimony in terms of how he approached the budget. The D.C. government does not spend its money in equal monthly allocations.

If you look at our cash-flow, which we are good at putting out there so you can look at it, a number of payments come in October but don't come in November or December. For instance, we pay the retirement board on the first of October if the Federal payment has come in, some $77 million. We don't pay them in October—I mean, November and December, pay them again in January.

We pay Metro some $33 million the first of October. Again, that's over $100 million of payments that come in October to those two bodies alone and does not occur in November and December.

In fact, Ms. Norton, we support the automatic appropriations of a portion of the Federal payment. But on the other hand, if I were to make a recommendation, I think we ought to get at least a quarter of the Federal payment up front so we can meet these obligations.

Well, how do you then control the spending? It is very easy. It is very unlikely that this Congress, in regard to how reactionary it may become, is going to cut 75 percent of the Federal payment out of your total amount. So if we have $660 million this year, the average monthly appropriation would be about $55 million, which means we still could not meet our retirement board payments, and it causes interest, too. Whenever we don't make those payments, they charge us interest on the money they have been making by investing it.

The Metro charges us interest on the money they had to borrow when we don't make our payment. So we need at least $100 million upfront just for those two payments alone, not to mention the fact if you look at the last 4 or 5 years, an increasing amount of Federal payment initially has gone to pay past bills from the year before.

How do you control that? First of all, Mr. DeSeve knows that, as you said, Ms. Norton, if we owe the Treasury $200 million, they are going to get theirs upfront. It is nonsensical to say we can't protect our money because you're going to get it upfront.

Second, once the appropriation is made, you make the adjustments. You know, if it is less than 660 in a quarter that is less than that, you make the adjustments on the back end. So if it is $600 million, so we've gotten a quarter of 660, you make the adjustment on the $600 million as you appropriate it. Take out the Treasury borrowings and give us a quarter. That would be a more manageable way of getting our money.

The same is true with your local appropriations. We look at our cash-flow. With our local money we don't spend at a monthly rate of one-twelfth, one-twelfth, one-twelfth. Suppose we spend in the first 2 or 3 months at a rate greater than the annual expenditure for our local money; once the appropriations are made, you make the adjustments on the back end to ensure that you don't overspend for the rest of the year. That is not difficult to figure out in terms of how we do that.

For those who advocate even with our local money that it be spent at one-twelfth the rate, is really not dealing with reality. We ought to be able to spend according to our plan.

First of all, our budget would have been looked at by the Authority with their recommendations for 1996, for instance. The city council would have approved our budget for 1996 with their authority. And then the Authority's recommendation would have been before the Congress, and that would be our guideline for how it would spend within the appropriations title.

So a lot of protections here against overspending and also it gives the local government its priority of how we spend our money. So I thought I would add that.

Also during the shutdown, as you probably know, a lot of expenses continue, and I want to give you a couple of examples, a few examples of the impact of the shutdown.

The District operates 17 senior citizens recreational facilities, 13 of which are in public housing developments, and these facilities are safe havens for our older residents who may not have the resources to feel safe venturing outside their neighborhoods. During the Federal furlough, each 1 of the 13 senior citizen facilities were closed as well as one other senior facility located in a nonpublic housing. Our seniors are suffering from this shutdown.

Lack of program operation or neighborhood-based recreational facilities, impacted about 11,000 participants. The District operates 83 recreation facilities. All these facilities were closed during the shutdown, affecting almost 11,000 participants each day, which meant that our young people who need to go to these facilities have no place to go after school during this shutdown.

We had to close six indoor pools which means those young people who use those pools for recreational activities and for swim-meets had to be closed.

Then the worst tragedy of all that there are a number of our young people who have special needs. These are the handicapped with physical and mental disabilities. We operate three therapeutic recreation facilities for them. All three of those were closed, which meant that these persons with special needs already got enough problems already, Mr. Chairman. Then add that to it, they can't go get their daily workout in the pools, they can't get their exercise, they can't do other special needs kinds of things, they're impacted by that.

Then we look at public safety. We operate a board of parole. During the initial part of the shutdown because our guidelines were similar to the Federal Government's, we did not allow the parole board to operate. It became a public safety issue, and Mr. Rogers and I made the decision to let them operate because during that period, 525 parolees were not able to report to their parole office, which meant they couldn't go check in so the parole office could see what's happening with them.

We had to cancel 110 urine tests in terms of our monitoring of our ex-offenders. And approximately 50 reports of alleged violations were delayed. Even though our fire, police and corrections were exempted from the shutdown, the parole board was not. Seventy-six parole hearings couldn't be held. Board decisions in almost 300 cases were delayed. And approximately 30 individuals were not released according to their dates.

Then there's public works. We've talked about the trash pickups. We had to stop all of our essential trash pickups. Over 100,000 senior family homes were affected by this. But the most egregious thing about it, that once we got back to work, the District had to spend $27,000 of overtime to catch up to pick up the trash that had not been picked up. This is outrageous in terms of being affected by what happens at national levels.

Litter cans; we have over 2,500 public receptacles on the streets of Washington. During this period, they were overflowing with trash making our city look bad and adding to the environmental concerns about health and the welfare of our people. How terrible does it look for our Nation's Capital during this period to have litter cans overflowing with trash for all visitors and others to see;

but more importantly, no place to put your litter except on the streets of the District of Columbia.

We also issue construction permits. We are trying desperately to get businesses to locate in the District of Columbia, stay here and to build here, but during this period, developers, plumbers, building contractors, architects were not able to obtain building permits during this period which meant we delayed construction of a number of projects, and as we all know, construction delays cost money. So again, it doesn't make a lot of sense here. We also were not able to service our own fleet, our own pieces of equipment.

The other thing that happened was we had about 26 of our vehicles on the street could not be towed because they were—they weren't working and they were vandalized while they were on the streets.

The other one is traffic signals. There were over 60 traffic signals that went on the blink during this period and we could not repair those, so you had flashing yellow lights when you should have had red lights or green lights, and again, this shutdown affected that.

Our motor vehicles were shut down, we couldn't issue drivers' license. We lost the ability to issue over 670 driving permits, which meant that if a person's driver's license expired during this period, and they waited, as some people do, till the last day or so to get their driver's license, the place was closed, which meant technically they were driving without a license, expired license. The cops stopped them, they may say, well, the place is closed. The cop may understand that, but he may not understand that and give him a ticket and arrest him for not having a valid drivers' license. The same thing is true with tag renewals, you might not have your proper sticker.

The Woodrow Wilson Bridge is part of our responsibility to staff. During this period we couldn't staff it and therefore we endangered the possibility of river traffic being able to come up the river during that period.

Not to mention human services. Eleven public health clinics closed, people's health was affected by it, couldn't go get their medicine, couldn't get their health concerns taken care of. Most of the people who use our clinics are low-income persons whose only access to health care are our clinics and we needed them to be going there.

The tragedy, Mr. Chairman, was the committee's—a number of our pediatric visits. These are children who have scheduled visits to go see their physician at these neighborhood clinics, couldn't go. Which meant if a youngster had a sore throat or some other problem, couldn't get it taken care of at our clinics, had to find some other place to go, didn't have any money.

The District's tuberculosis clinic was closed during this period which meant that those in need of medication, treatment and monitoring could not go.

So we think this is an appropriate approach to this. We—our local moneys, yearly Federal payment is about $3.3 billion. We ought to be able to spend that money in line with our plan as approved by the Council and the Authority, and if it's before the Congress, the Congress can make the adjustments once it finally makes appropriations. But we ought to be trying to help the Dis-

trict and not, as you said, Ms. Norton, put nooses around our neck and more strictures and structures around us to get this job. It's tough as it is now.

So your approach, my suggestion would be to look and see if there's any way to modify the Federal payment portion of this to make it a quarterly upfront, lump sum, with the Treasury getting its money out of the total at the end, and also the Congress can make the adjustment when it gives us the final appropriation.

It seems to me that if you did the quarterly upfront and there is not a bill by January, you could then go back to the one-twelfth of what's left, or one-ninth of what's left would be more equitable approach for the Federal payment, if we had to do it that way. And so we would not like to have any one-twelfth restriction on our local appropriation. That ought to be spent in line with our financial plan which basically is a monthly plan as well as a yearly plan.

And that's my testimony. I appreciate your support of this, Mr. Davis, and your vigilance in trying to help the District. We certainly support your efforts in that regard.

And Mr. Williams, do you have any comments on this?

[The prepared statement of Mr. Barry follows:]

Testimony of
Mayor Marion Barry, Jr.
Before The
U.S. House of Representatives
December 6, 1995

In Support Of The
DC Fiscal Protection Act
Sponsored By
Congresswoman Eleanor Holmes Norton

First of all, let me thank Congresswoman Norton and Congressman Davis for their leadership in holding this hearing and their continued effort to demonstrate for the Congress and all of America the unique circumstances of the Nation's Capitol.

I am here to emphatically endorse the DC Fiscal Protection Act, sponsored by Congresswoman Norton. There are a great many inequities and imbalances in the relationship between District citizens and the Federal Government. Most of these issues spark intense debate and philosophical controversy. Here is an issue today that should not be controversial and should provide a good opportunity for every member to demonstrate they really care about the people who live and work in Washington, D.C.

It is not the conscious intention of anyone to purposely shut down the Federal Government. But this, of course, is the natural consequence of failure to craft legislative agreement on Federal spending policy. This bill is not about those natural consequences -- it is about unintended consequences.

The consequences of shutting down the Federal government, and application of the Anti-Deficiency Act, are dramatically different for local government functions. The Federal Government performs few direct citizen services that cause serious harm when interrupted -- even for an extended shutdown of four or five days. The District Government, however, must use these same guidelines to alter or stop trash collection, issuance of licenses and permits, performing health and safety inspections, providing care to families and children, delivery of home care and food to the elderly, library service, or operate the car impoundment lot.

Local government is largely dedicated to service delivery, providing protection, regulation, services, and care on a daily basis to citizens. Unlike federal agencies, DC Government is responsible for inspecting and licensing child care facilities, responding to child abuse complaints, issuing business and drivers' licenses, parking control, inspecting and approving construction, overseeing individuals on parole, delivering home care to sick, older citizens, operating playgrounds for children, picking up trash, keeping traffic lights working, and operating the draw span of the Woodrow Wilson Bridge.

Terminating these services for even a day does not save money. It compounds problems and adds expense as well as pain to the lives of nearly 600,000 Americans who happen to live in the capitol city of the greatest nation on earth. Additionally, it harms the job we must perform as host to the Congress, 19 million visitors annually, the diplomatic community, and Americans who do business with the Federal Government.

It is not reasonable that there is a connection between stopping public services for only one city in America and the legislative process of establishing national economic policy. It simply doesn't make sense.

Let me remind the Congress and the nation that we are not talking about federal tax dollars here. Washington, D.C., is the only jurisdiction in American whose local revenues are appropriated by the Congress. When an impasse on budget forces a Federal government shutdown, we are required by law NOT to spend local taxpayers' funds on local taxpayers' problems. We are, under threat of indictment, conviction, fines, and imprisonment, prevented from spending local revenues for services approved by local, elected, public officials.

More than eighty percent of the District Government budget is made up of local revenues -- including property taxes, personal and corporate income taxes, sales and gross

receipts taxes, user fees, fines, licenses, and lottery proceeds.

Because DC is the economic heart of one of the nation's prime regional markets, our failure to provide services has a ripple effect far beyond the immediate inconvenience. This is particularly true during the holiday season. A second shutdown this season would be particularly devastating.

During this particular period, shutdowns add to the District's already critical financial outlook. We are currently experiencing serious disruption in our cash flow because of the decision to make the federal payment to the District in small increments instead of the annual payment as has been traditional. This Federal payment covers our expenses dedicated to the role of the Nation's Capitol as host to the Federal Government.

During shutdown, these expenses -- of course -- continue. And the incremental payment of this Federal share further chokes our cash flow and impedes our financial renewal.

I would like to share with you a few examples of actual service hardships which District citizens experienced during the shutdown, November 14 to 19.

Recreation and Senior Citizen Impacts

- The District operates 17 senior citizen recreational facilities, 13 of which are in public housing developments. These facilities are safe havens for our older residents who may not have the resources or feel safe venturing outside of their neighborhoods for leisure activities. During the federal furlough, each one of the 13 senior centers were closed as well as one other senior facility located in a non-public housing residential area.
- Three of the 17 senior citizen recreational facilities, however, were exempt from the furlough because they serve as feeding centers for the elderly. Unfortunately, many of our seniors were without transportation services to receive the nutritional meals provided at the 3 centers because the Department of Recreation and Parks drivers were furloughed. As a result, our most neediest senior citizens were not afforded the benefit of our meals program. 1,200 senior citizen transportation trips were not provided.
- The lack of programs and operations at neighborhood-based recreational facilities impacted approximately 11,035 participants each day as a result of the federal shutdown. Six indoor pools could not open, 83 recreation centers were inaccessible to youth, 3 therapeutic recreational facilities were unable to treat clients and 15 cooperative play programs for youth 3 to five years old could not operate.

Public Safety Impacts

- A total of 525 parolees were not able to report to their parole officers to discuss their progress or maintain compliance with parole conditions. 110 urine tests were canceled and approximately 50 Reports of Alleged Violations (RAV's) on parolees were delayed.
- Although our police, fire and corrections functions were exempted from the shutdown, the Board of Parole was not. As a consequence: 76 parole hearings and 15 parole revocation hearings were canceled. The Board's inability to conduct these hearings

caused non-compliance with legally-mandated time frames, delays in parole releases.

- Board decisions in almost 300 cases were delayed and, approximately 30 individuals were not released on parole. Also, 25 parole violation warrants were not issued because staff were not on hand to process related documents.
- More than 300 telephone inquiries were not answered by Board of Parole staff. These calls are typically made by the public, attorneys and other criminal justice agencies and representatives concerning the status of offenders' cases.

Public Works and Consumer Protection Impacts

- Because limited trash collections were made during the shutdown week, the increased volume of trash for the subsequent week required the expenditure of $27,867 in overtime costs in order to resume routes on the scheduled collection day. This impacted 100,000 single-family homes in the District.
- Litter can collections were not made, as such more than 2,500 public receptacles city-wide became over-filled and spilled trash throughout our residential and business districts. Due to the tremendous impact of this trash on our downtown and commercial centers throughout the District, the Administration exempted litter can collections from the furlough after the second day.
- Construction permits issued by the Department of Consumer and Regulatory Affairs were not issued and architects, developers, plumbers and building contractors were not able to obtain customer service at WASUA's Office of Engineering Services nor at the Department of Consumer and Regulatory Affairs, One Stop permit center. Additionally, the surveyor's office could not issue building plats nor process subdivision applications. These types of delays cause our citizens, developers and contractors unnecessary and costly delays. It also denies the District much needed revenue.
- Approximately 100 pieces of equipment were not serviced by our Fleet Management Administration, including trash trucks, sweepers and water and sewer equipment.
- District government vehicles (approximately 26) were vandalized because they fell into disrepair on the street and could not be towed.
- The shutdown created an eight day delay in the repair of municipal snow equipment which included 30 trucks.
- 60 traffic signals were not repaired (@15 p/day) and remained flashing until offices reopened.
- The impact on the District's motor vehicle services operations was extreme. Each day of the shutdown, we were unable to issue 450 titles nor register 420 vehicles--a significant impact on car dealerships.
- In addition, for each day of the shutdown, we were unable to issue 670 driving permits. Also, 480 licenses were not issued over the four day period and 4,400 vehicles were not inspected.
- The Woodrow Wilson Bridge was not staffed for bridge openings, resulting in a violation of U.S. Coastal Guard regulations requiring the bridge to be staffed for 24 hours a day to accommodate river traffic. The District has been responsible for bridge openings on the Wilson Bridge since 1962. We were forced to inform the

Coast Guard that for the first time since this date, we were unable to provide this function.

Human Services

- For two days of the shutdown, all eleven of the District's public health clinics were closed. Persons with chronic, long-term illnesses (diabetes, hypertension, etc) who utilize these services did not receive treatment nor medication throughout this period. In addition, pediatric visits were not available, nor were we able to provide immunizations to our children or perform vital pre-natal and well baby care.
- The District's tuberculosis clinic was also closed for a two day period. Again, persons in need of medication, treatment and monitoring were not able to secure these services.

The DC Fiscal Protection Act is a reasonable approach to stop these unintended consequences when a Federal shutdown occurs. It carefully provides for services to continue without jeopardizing authority or responsibility for Congressional oversight, involvement of the Financial Authority, or members of the elected DC Government.

Passage of this legislation in no way influences the struggle involving the Executive and Legislative branches of the Federal Government on balancing the Federal budget. The intent of Congress will still be served without the inclusion of District Government services in any shutdown.

There is an ancient African parable which says that when elephants fight, the grass gets trampled. The citizens I represent are clearly the grass in this situation. The Congress has a good opportunity to stand on the side of the citizens without in any way jeopardizing its responsibility or authority for national or Washington, D.C., issues.

I urge prompt passage of this legislation. And I again thank Congresswoman Norton and Congressman Davis for their efforts on behalf of the people of the district.

END

Mr. WILLIAMS. Just very, very briefly, Mr. Chairman.

Thank you, Mayor, Mr. Chairman and Ms. Norton. Thank you for your cosponsorship of this legislation.

I would just very, very briefly say that I echo the remarks of the Mayor in terms of the program impact of disruptions of Federal shutdowns on the District because, after all, the appropriations process is about achieving performance and fiscal integrity, and I think both of those aims and objectives are thwarted by a disruption and its effect on the District.

Performance is certainly undermined in that many, many services directly impacting city residents cease. Not only that, but fiscal integrity is also undermined in the sense that there is a loss of revenue, there is an inability of the District to properly manage and forecast its financial affairs and very, very important life, a diversion of the District from the important task of composing and developing for consideration of the Mayor, the Authority and this Congress its preeminent objective and that is its financial planning budget.

In terms of my concerns with the legislation, I would echo the Mayor's remarks in terms of the Federal payment. The concern with the stream of Federal payments in Section 3 is—I think, goes to the reliability, it's an entitlement, what kind of appropriations is it, what kind of scoring implications are there?

I think that all of us can work together to try to see that the District has the infusion of cash it needs at the beginning of the year so that it can once again divert its attention from these fires and these crises to this long-term financial planning that puts the government on the footing that I know all of us want to have it on.

I would also endorse the views of the Authority as it relates to the role of the CFO in the apportionment process in setting these obligations and expenditures. I think that making the language in the first section of this bill consistent with the Authority Act is consistent with the CFO's reporting responsibilities, both through the Mayor and the CFO's responsibility for setting obligations and expenditures in a control year. With that, that's my testimony.

Thank you.

[The prepared statement of Mr. Williams follows:]

Testimony
Anthony A. Williams
Before The
Subcommittee on the District of Columbia
Committee on Government Reform and Oversight
U.S. House of Representatives
On The
D.C. Fiscal Protection Act, HR 2661
December 6, 1995

I am Anthony A. Williams, who as Chief Financial Officer for the District of Columbia. Thank you for inviting me to testify on H.R. 2661, the District of Columbia Fiscal Protection Act of 1995, allowing the District to spend against its own revenues in the absence of an appropriation for the District.

Today marks my 41st day as Chief Financial Officer for the District. This has been more than enough time to witness first hand the many fiscal challenges facing this City, and certainly more than enough time to reinforce my conviction that the financial and fiscal integrity for our government must be paramount. I believe that my experience as a Chief Financial Officer of both a major Federal department and of the District gives me a unique perspective on the normal application of Federal Appropriations law to District operations. In fact, arriving for work in the District -- and from the Federal sub-cabinet -- I thought I had seen the last of contingency plans for a federal shutdown. Alas, not only did the normal rules for federal shutdown apply to the District, they hit with particular disruption and force.

As this Committee well knows, the District receives only a fraction of its revenues from the $660 million federal payment. Sixty-seven percent -- $3.3 billion -- of our revenues are received from local taxes and fees; 19.6 percent, or $960 million originate as federal grants. Furthermore, a number of enterprise and trust accounts support a wide-range of District activities. As I analyzed the financial and fiscal impact of shutdown plans for the Department of Agriculture, I was reminded of the original purpose of the Appropriations Law and its important feature, the Anti-Deficiency Act, itself a codification of Constitutional provisions against overspending.

The Appropriations process holds an important lesson for the District: all of us should be held accountable for spending and to the maximum extent practicable obligations and expenditures should be held to the bright light of legislative oversight and scrutiny. A large motivation behind our Appropriations process is the preservation of the public's resources and the efficient and effective use of these resources in achieving designated missions. Unfortunately, significant resources are put in jeopardy by the effect of Federal shutdowns on the District. Efficiency and effectiveness, the basis for the appropriations process, is greatly reduced by foregone revenue, increased costs, and reduced productivity, the impacts of Federal shutdowns on District finances.

Effect of Legislation

The benefits of this legislation are found in the costs it allows the District to avoid. First, local shut-downs exacerbate the District's already tenuous financial condition. Many of our financial personnel were furloughed during the shutdown, suspending critical work on the District's roadmap for its financial recovery: its multi-year financial plans and budgets. Moreover, at time when all of us are exploring every avenue to increase productivity, we lose substantial productivity with 33% of our employees forced to remain from work. Furthermore, while my staff is analyzing the economic impact of the shutdown, it is clear that the local shutdown has aggravated the downturn in revenues resulting from the Federal shutdown in general. Most important, the Federal undermines reliable budget plans, and consequently, frustrates attempts at accurate cash forecasting.

Obligations and Expenditures

My concerns with the legislation relate to the level of obligations and expenditures and the process used to arrive at these marks. I do not believe that financial integrity is jeopardized or the appropriations process thwarted by allowing the District to obligate or expend against locally generated revenue. I do believe that the principle of conservatism otherwise prevalent in the legislation is contradicted in the provisions allowing the District to obligate or expend against grant revenue -- most specifically the federal grant. Agencies are put at risk of overspending if the Congress eventually reduces the amount of the federal payment or federal grants.

The legislation should also specify that the Chief Financial Officer prepares the notification of obligations and expenses for the Mayor's submission to the Authority. The District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8) grants the CFO not only key responsibility for the District's fiscal affairs, but also the explicit charge to set the District's budget apportionment and to manage obligations and expenditures in a budget year. Adding this language would harmonizes this legislation with the Authority Act (Public Law 104-8).

Finally, Section 3, by releasing the federal payment in monthly installments appears to authorize such monthly appropriations while not ensuring such appropriations would actually be made. In fact, it allows for an expenditure against an authorization. As in the case of the federal grant as a whole, there is no guarantee that after passage of time the Congress will support a federal grant in an amount greater or equal to the amount the District as already included as revenue. Modifications should be made to legislation to serve the valid and critical goal of providing the District with operating cash while keeping funds under necessary control..

In conclusion, while supporting the legislation, I would recommend changes as they relate to funds control issues and a specified role for the CFO consistent with Public Law 104-8. I thank you Mr. Chairman for your co-sponsorship and I would be happy to answer any of your questions.

Mayor BARRY. Also, Mr. Chairman, Mr. Rogers has a brief statement.

Ms. Norton, the question about this cash, this problem is not going to go away. We know what caused it. In 1994, the District government overspent its budget by $322 million. We take $322 million out of 1995 cash and pay 1994 bills, which left us short in 1995 for $322 million. So now we are having to take 1996 cash to pay 1995 bills.

And so until we solve—we are coming forth with a plan, I talked to Mr. Williams and Mr. Rogers about this yesterday. We are going to have to, Ms. Norton, find a way to deal with this $322 million, either refinance it or some other combination of how we get it. Until that happens, you are going to have Mr. Williams on a daily basis having to try to decide who you pay when you don't have enough money to pay all the people.

But if we have $322 either from long-term loans or some other financing, that would solve our immediate cash problem as long as we continue to try to balance our current budget as to not to exacerbate the problem.

So, Ms. Norton, until we do that, you are going to hear about these vendors not getting paid, you're going to hear people screaming and yelling, you're going to hear people picketing Mr. Williams' office because he won't pay them their money. And that's the problem with that.

Mr. Rogers.

Mr. ROGERS. Good afternoon, Mr. Chairman, Ms. Norton. I would like to have my full statement entered into the record.

Mr. DAVIS [presiding]. Without objection.

Mr. ROGERS. The Mayor has certainly identified the impact of this shutdown on the District government. From an operations standpoint, day to day, we have to assure that citizens get the services they pay for. They expect to get those services.

In the course of the week of the shutdown, we had to make decisions each day about what we should open. For instance, we made the decision initially not to open the 11 health clinics. But as we began to assess the impact, we had to open those health clinics.

We made the decision early on not to open motor vehicles. As the day went on, the week went on and the shutdown went on, we made the decision that citizens pay to—their taxes to have those services, they have licenses that they have to renew and that there is a safety issue on the street if they did not have an opportunity to come in and renew those licenses.

So we are very different, as you know, from the Federal Government. We provide many frontline services. And in the real operating environment, we had to make those decisions. For instance, in some prior shutdown plans, draft shutdown plans we saw, public schools were not included on the shutdown plan. But we made the decision that public schools should remain open, the school facilities, not administration buildings, because we felt it was unfair for kids not to have an opportunity for their education during the shutdown while our leaders figure out how to balance the Federal budget.

And there is another impact of that and that's last year the schools were closed early 10 days so that the school board could

participate in the 10-day furlough plan. So we had to make tough operating decisions.

House bill 2661 is an important step in recognizing that the District of Columbia, among other things, is in fact a municipality, a direct-service provider. It also will recognize that citizens here pay for services and they expect those services and would allow we, the officials of the District, to fulfill our obligation to provide for the citizens with services they pay for. We support this bill.

[The prepared statement of Mr. Rogers follows:]

TESTIMONY OF MICHAEL C. ROGERS
CITY ADMINISTRATOR
DISTRICT OF COLUMBIA GOVERNMENT

BEFORE THE HOUSE D.C. SUBCOMMITTEE
ON H.R. 2661 THE D.C. FISCAL PROTECTION ACT
DECEMBER 6 1995

GOOD MORNING CONGRESSWOMAN NORTON, CONGRESSMAN DAVIS AND MEMBERS OF THE HOUSE D.C. SUBCOMMITTEE. I AM MICHAEL C. ROGERS, CITY ADMINISTRATOR FOR THE DISTRICT OF COLUMBIA GOVERNMENT. I APPRECIATE HAVING THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF H.R. 2661: CONGRESSWOMAN NORTON'S "D.C. FISCAL PROTECTION ACT." LET ME STATE FOR THE RECORD THAT THIS PROPOSED LEGISLATION IS ESSENTIAL TO THE HEALTH, SAFETY AND WELL-BEING OF OUR GOVERNMENT IN EVERY POSSIBLE SENSE.

THE HOME RULE LAW ENACTED IN 1973 COMBINED A ***FULL SERVICE CITY*** AND A ***FULL SERVICE STATE*** INTO A SINGLE GOVERNMENTAL ENTITY, THE LIKES OF WHICH HAS NO COUNTERPART ANYWHERE IN THE UNITED STATES. OUR STATE FUNCTIONS, FROM AN OPERATIONAL STANDPOINT INCLUDE THE PROVISION OF PUBLIC ASSISTANCE, MEDICAID, CORRECTIONS, MOTOR VEHICLE AND HIGHWAY CONSTRUCTION PROGRAMS, AMONG OTHERS. OUR CITY/COUNTY RESPONSIBILITIES INCLUDE LIBRARY SERVICES, PARKS AND RECREATIONAL ACTIVITIES AND FACILITIES AND OTHER TRADITIONAL MUNICIPAL FUNCTIONS ASSOCIATED WITH THE PROVISION OF EDUCATION

AND PUBLIC SAFETY.

CLEARLY, THE SIMILARITY BETWEEN THE DISTRICT'S OPERATING ENVIRONMENT AND NEEDS, AND THE FEDERAL GOVERNMENT'S ARE COMPLETELY DIFFERENT. THE DISTRICT GOVERNMENT IMMUNIZES CHILDREN, FEEDS THE ELDERLY, INSPECTS ROADS AND BRIDGES, ISSUES BUILDING PERMITS, AND, IN SOME INSTANCES--WE EVEN BURY OUR DEAD. LET ME STATE FOR THE RECORD THAT LAST MONTH'S FEDERAL SHUT DOWN ABRUPTLY INTERRUPTED EACH AND EVERY ONE OF THE ABOVE SERVICES--AND THEN SOME. THE SHUTDOWN WAS SO SUDDEN AND PRECIPITOUS THAT WE ARE JUST BEGINNING TO FULLY RECOVER FROM THE DEVASTATING AFFECT OF THE FEDERAL CLOSURE.

FRANKLY, THERE IS NO GOOD OR LOGICAL REASON TO TREAT THE DISTRICT AS A FEDERAL ENTITY WHEN CONGRESSIONAL CIRCUMSTANCES REQUIRE A FEDERAL SHUTDOWN. FIRST AND FOREMOST, 80 PERCENT OF OUR FUNDING IS DERIVED FROM LOCAL TAX DOLLARS--NOT FEDERAL FUNDS. WHY SHOULD OUR CITIZENS BE DENIED SERVICES WHICH THEY HAVE, IN EFFECT, FULLY PURCHASED, SIMPLY BECAUSE OF OUR UNIQUE ORGANIZATIONAL STRUCTURE AND RELATIONSHIP TO THE U.S. CONGRESS? CERTAINLY CONGRESS WOULD NOT CONSIDER SHUTTING DOWN NEW YORK CITY, CHICAGO OR LOS ANGELES, NOR ARLINGTON, PRINCE GEORGES , OR FAIRFAX COUNTIES, FOR THAT MATTER. WHY SHOULD THE NEEDS OF DISTRICT

RESIDENTS AND BUSINESSES BE DIFFERENT FROM ANY OTHER LOCALITY IN THE COUNTRY?

SECOND, SUCH AN ACTION COMPLETELY DESTABILIZES AN ALREADY FRAGILE OPERATING ENVIRONMENT. OVER THE LAST FISCAL YEAR ALONE, APPROXIMATELY 3,700 EMPLOYEES HAVE LEFT THE DISTRICT GOVERNMENT. MANY OF OUR AGENCIES ARE HAVING GREAT DIFFICULTY PROVIDING BASIC SERVICES WITH REDUCED STAFF AND FEWER OPERATING DOLLARS. THE DEPARTMENT OF RECREATION, WHICH CURRENTLY STAFFS IT'S CENTERS WITH AN AVERAGE OF 1.5 PERSONS IS A GOOD EXAMPLE OF THIS, AS ARE CRITICAL FUNCTIONS IN THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS (FOOD INSPECTORS) AND OTHER AGENCIES. THE FEDERAL CLOSURE BACKLOGGED WORK ASSIGNMENTS AND LEFT WORK ORDERS STACKED UP FOR FOUR DAYS AT OUR FLEET AND BUILDING MAINTENANCE OPERATIONS, DIRECTLY IMPACTING OUR ABILITY TO MAKE EMERGENCY REPAIRS AT DISTRICT FACILITIES AND ENSURE THE AVAILABILITY OF WORKING EQUIPMENT AND VEHICLES.

THE CLOSURE ALSO IMPACTED OUR ABILITY TO GENERATE REVENUE. GIVEN OUR FISCAL CIRCUMSTANCES, IT IS TOTALLY INCOMPREHENSIBLE WHY THE DISTRICT WOULD BE TREATED AS A FEDERAL AGENCY. ALTHOUGH A FINAL FIGURE IS NOT AVAILABLE, WE DO KNOW THAT WATER BILLS WERE NOT COLLECTED NOR WERE WATER BILLS MAILED OR BUILDING PERMITS ISSUED.

ONE AGENCY, THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS, ESTIMATES THAT THE FOUR DAY CLOSURE COST THE DEPARTMENT SOME $922,000 IN LOST REVENUES (Note: THE AGENCY GENERATED $59.9 MILLION LAST FISCAL YEAR; APPROXIMATELY $230,500 P/DAY). CLEARLY, THE IMPACT OF THE FEDERAL CLOSURE WAS A HIT THE DISTRICT SHOULD NEVER HAVE BEEN REQUIRED TO TAKE. I WILL BE VERY INTERESTED TO HEAR MR. TYDINGS' TESTIMONY LATER TODAY. I AM SURE THAT IT WILL SHOW THAT THE DISTRICT TOOK A DOUBLE HIT--NOT ONLY IN TERMS OF REVENUES LOST, BUT ALSO WITH RESPECT TO THE OVERALL DISTRICT ECONOMY AND THE LOSS OF SALES TAXES AND TOURIST DOLLARS.

FINALLY, THE IMPACT ON OUR RESIDENTS AND BUSINESSES IS BOTH UNECESSARY AND UNFAIR. THE DISTRICT HAD NO ABILITY TO MANAGE THE FEDERAL CLOSURE NOR PREPARE OUR RESIDENTS FOR THE RESULTING IMPACTS. MANY OF THE IMPACTS ASSOCIATED WITH THE CLOSURE AFFECTED TRADITIONAL MUNICIPAL SERVICES. BUT THE REALITY OF IT COMES DOWN TO THIS: HOW DO YOU TELL A 10 YEAR OLD WHO HAS PLAYED FOOTBALL EVERY WEEKEND FOR THE LAST 8 WEEKS AT HIS NEIGHBORHOOD RECREATION CENTER THAT HE WILL NOT BE ABLE TO PARTICIPATE IN THE PLAYOFF GAMES SCHEDULED FOR THE WEEKEND BECAUSE THE DEPARTMENT OF RECREATION CANNOT MAKE REFEREES AVAILABLE DUE TO THE FEDERAL SHUT DOWN? I CAN TELL YOU NOW THAT WE COULD NOT AND DID NOT ALLOW THIS SITUATION TO HAPPEN.

FURTHERMORE, HOW DO YOU SHORE UP AN ALREADY AILING CITY HOSPITAL TO TREAT PATIENTS WHO WOULD, UNDER NORMAL OPERATING CIRCUMSTANCES, VISIT ONE OF THE 11 NEIGHBORHOOD HEALTH CENTERS? BECAUSE THESE CENTERS WERE CLOSED DURING THE SHUTDOWN, MORE THAN 110 MEDICAL EMERGENCIES TYPICALLY HANDLED AT THE NEIGHBORHOOD CLINICS WERE REFERRED TO D.C. GENERAL HOSPITAL. AS SUCH, GENERAL EMERGENCIES SUCH AS TOOTHACHES AND FEVERISH CHILDREN WERE SENT TO THE EMERGENCY ROOM AT D.C. GENERAL.

THE QUESTION I ASK IS AT WHAT FURTHER COST WILL THE DISTRICT AND ITS RESIDENTS BE ASKED TO PAY THE NEXT TIME CONGRESS REQUIRES A FEDERAL CLOSURE? IT IS MY SINCERE HOPE THAT THOSE OF YOU WHO PROFESS TO HAVE THE DISTRICT'S BEST INTEREST AT HEART, WILL SEE THE WISDOM AND VALUE IN PROVIDING YOUR UNEQUIVOCAL SUPPORT OF H.R. 2661. THANK YOU FOR ATTENTION AND INTEREST ON THIS MATTER.

Mayor BARRY. Also in closing, Mr. Chairman, Ms. Norton, our union leadership has stepped to the table during our financial crisis and made a number of decisions that were very unpopular with their membership. They have made great sacrifices, almost $70 million last year of pay reductions. None of us wants pay reductions but they did that.

We have a shutdown, again you have inequities. You have some D.C. government workers working and others not working, and then those who want work and eventually get paid for not doing any work, that is not fair either except that is equitable if the Federal Government does it. So you have that going on. Some leadership members are working, some not working. So it puts those kind of pressures on the union leadership to try to manage the best way they can.

These workers are impatient, as you know, Ms. Norton. They are probably more pushy than the leadership sometimes may want to admit. So they are in a bind, too. So this is all together.

And finally, just from a financial planning point of view, we have a financial management system that once you load the obligations into the system at very detailed levels, you spend by that and it is put on that annual basis. But when you have to go month to month, how can you even anticipate or predict what contracts you possibly can let? I mean, that is just no way to try to run a city as tough as it is under the best of circumstances.

And so we support this bill and urge you to look at the modifications that we suggested in terms of the Federal payment and not prorate the local money on a one-twelfth, one-twelfth basis, but to let us spend according to our plan which would be a balanced budget.

Mr. DAVIS. Thank you very much.

Let me just say, as you know, I ran a government across the river in Fairfax and I'm aware of what these uncertainties do to running a local government day to day. The Federal Government can shutdown. It is not pleasant, when people don't get services from their local government because every day people are relying on their local government in a way that many don't rely on the Federal Government.

And as I said and Ms. Norton said in her comments, this was an unintended consequence that we don't ever want to have to go through again.

Having said that, I would just like to ask a couple questions, if I may, and any of you who want to answer is fine.

What criteria did you use to say what was an accepted government activity, and what wasn't? You didn't have any percentages that you had to pick from or anything else. Was there anything to stop you from saying everybody was essential, or do you think that would have been too cynical?

Mayor BARRY. I thought about that. If it had been a different political climate, I probably would have said everything is essential. But the reality is, we started with public safety.

Mr. DAVIS. Something that occurred to me is, if we have trouble with this, we may want to rewrite the criteria for the city, so can you go ahead and do that, because, frankly, it struck me, sitting here, some of the services that were not provided during this period

should not have been exempted. These are essential services day to day, and, you know, as this stretches out, what you can go without for a day or two, and what you can't go without for a week or two. So I would just be interested in your thoughts on that.

Mayor BARRY. As I said, we started with public safety, obviously, fire, police, and corrections, et cetera. Then we looked at the education system. We included the public schools, but not UDC. Again, it was a judgment, since there was no clear-cut guidelines. Then health and safety. That's how the trash came into it, at some point.

After a while, we said we no longer can let this trash—outside of being unsightly, it was unhealthy, to have trash in our neighborhoods where rats and dogs and everything could get into it, or just smell. And we took it as far as we could in terms of, like, health clinics.

I agree we need to—if we don't get this through, we need to better define what's essential from a local government point of view.

Mr. DAVIS. Got to give you more flexibility.

Mayor BARRY. I think all of our services are essential.

Mr. DAVIS. The administration gets beat up a little bit by Federal employees who think they are essential, and the people they are helping think they are essential and they are not declared that, and then those services aren't provided.

But at least in the case of the Federal Government they are represented, they are at the table when the impasse comes. The President has a pen; he can sign it or not sign it. He may or may not have gotten what he feels he can do, but they are at the table. The same with Congress. You are not at the table. It seems to me there is a big difference here.

Mayor BARRY. Not even in the room.

Mr. DAVIS. You are reading about it, right?

Mayor BARRY. Yeah.

Mr. DAVIS. We weren't in the room either. It was a small room.

To me, this is a manifest injustice that should not happen, and we are getting complaints from vendors who live all around the region, just as you are. When they can't get through to you, they call us.

Many of your employees live out in the suburbs as well, people who drive and work in the city. We are seeing, you know, that the level of service isn't the same. But this is just an unintended consequence. This is stupid, this should not have to happen again.

We have just got to write a bill that will pass muster with the pay-go legislation, and get it through Appropriations. It is very difficult to find people who would disagree with the proposition that, because Congress and the President can't get their act together and can't get their job done, for whatever reason, that somehow the city, with its own tax money, 85 percent raised locally, that the city can't go ahead and continue operating. I mean that is just stupid, and I haven't heard anybody stand up and defend that position. So in theory, everybody is with us.

Now, the problem comes when you put the specific legislation up, as you have heard today, and we are going to hear more people start nitpicking at pieces of it. We have got to frame this in such a way that we can get something out of committee, get it to the floor, and get the leadership behind it.

It is not going to be perfect. I don't think you are going to get everything you want at this stage, but we must make sure this doesn't happen again during this impasse—nothing is worse for the city—than to go through one of these at the holidays.

I had one other question. At the Federal level, Federal workers are prohibited from going out and getting other jobs. They can't even go out to McDonald's or be store detectives or anything else, because you have ethical prohibitions on outside employment. Does that apply to the city employees, or some city employees?

Mayor BARRY. Mr. Chairman, I don't know.

Mr. DAVIS. OK. If you could find out, I'm sure there are some city employees, at least——

Mr. ROGERS. There are some that would probably be.

Mr. DAVIS [continuing]. That that applies to. Basically you have taken away any livelihood they have.

The third question is, how much do you estimate this cost the city? Seven million was what we heard from Dr. Brimmer, and he admitted that he would be willing to relook and readjust the numbers.

Mr. ROGERS. Well, $7 million was the productivity loss that was estimated. But in terms of lost revenue, revenue not collected during that time——

Mr. DAVIS. That is what I am after.

Mr. ROGERS. Mr. Williams may want to answer too, but the report that I have, it's about $18.5 million. When we looked at our cash reports, that's about the loss of revenue or deferred collection of revenue that would have been collected had we been open during that time. So that impacts our cash-flow.

Mr. DAVIS. What about—and this doesn't even count the business loss, the fact that the Federal Government shut down, effected the shops, the people buying, and sales tax, all those kind of things?

Mayor BARRY. It should show up in our sales tax revenue. I suspect it will be down.

First of all, you had less people in Washington during the shutdown, and, too, I'm sure they weren't purchasing goods and services that weren't here.

Mr. DAVIS. Let me ask Mr. Williams if he has any specifics.

Have you had a chance to analyze that, yet? And, by the way, welcome. I didn't get to welcome you in your opening statement. I had heard you in your previous role testify before us and commented you made an impressive showing. We are happy to have you aboard.

Any thoughts on that? If there is any way you can work some numbers up for us, that would be very helpful.

Mr. WILLIAMS. We'll be very happy do that for you, Mr. Chairman. We are, in fact, analyzing all of our revenues as part of our revised 1996 and 1997 financial plan and budget.

I think it is important, while I would underscore what Michael said with regard to some lost revenue, in addition to the productivity decreases, it is important, though, to distinguish between the Federal shutdown from the impact of the Federal—the impact of the District shutdown. It is somewhat difficult. I mean the Washington Monument's closed, Smithsonian's closed; that impacts our

revenues. How do you sort that out from the actual disruption to our revenue flow?

Mr. DAVIS. Parking garages are closed; Metro is off. The region gets hit hard. You are the center core of that.

But, you know, I don't know that we are ever going to be able to stop, despite Mr. Gekas and others, the situation where Congress and the President can't agree. But for Heaven's sakes, allow the city to go on working, just like Arlington and Fairfax and Montgomery and Prince George's can go on and run. If you want to take the Federal payment out for a while, that is OK.

I mean, it is not great, I understand, but I will live with that if we can at least spend the rest of the money the way it was intended to be spent and treat you the same. It is just not right and fair, which is why I am happy to cosponsor this legislation and do everything we can to move it through.

Once again, I applaud Ms. Norton for bringing this bill forward. I think we will work with her in the next couple of days, and I want to get a markup out of here as quickly as we can.

Mayor BARRY. Mr. Chairman, also, I was just thinking, if, for whatever reason—legal, technical reasons—Ms. Norton, the Federal payment issue is not resolved in that way, you could always continue—you could still have a continuing resolution that dealt just with the Federal payment, and not our total appropriation level. That would be another way of dealing with it where the Congress could say we'll give the District a quarter of its Federal payment during this continuing resolution period. If you go that—I suspect that the District would not be the only agency not having appropriations if it came to that, in that kind of situation.

Mr. DAVIS. Let me ask two other questions. I am not sure the District appropriation bill is going to be resolved by December 15th.

Mayor BARRY. I don't think it will be. I don't think so.

Mr. DAVIS. Has anyone been talking to you in the last week from the Appropriations Committees in terms of the holdups and the city's view on some of these issues? Particularly education seems to be the holdup at this point, in terms of working out something everybody can live with.

Mayor BARRY. I had a conversation last week with Congressman Walsh about what was happening, and I talked to Mrs. Norton almost daily about this, talked to you yesterday about this.

It appears as though the Senate is of a different view about the scholarship fund that Mr. Gunderson and the House has put forth.

Mr. DAVIS. I think it is fair.

Mayor BARRY. And I don't think that in the present circumstances it's going to be resolved. And my understanding, also that the President, OMB, are opposed to the scholarship fund, and that's a fundamental question of whether or not you let the camel's nose in the tent. The whole camel will get down there pretty soon around national vouchers.

Mr. DAVIS. Well, I'll just——

Mayor BARRY. The other issue, I understand, is the education—Mrs. Norton, there were two issues.

Ms. NORTON. Abortion.

Mayor BARRY. Abortion. Those are two issues that I think are holding it up.

Mr. DAVIS. Abortion is an issue in everything we do up here. I tell you, you are not getting treated any differently than any other agency.

On the education issue, my judgment, for what it is worth, is that this was essentially put together to help the city, like a lot of these other initiatives. I think this educational initiative could have been helpful to the city.

I recognize there are some institutional issues given past city referendums that make the city reluctant. Maybe there is something that could be worked out that could be mutually agreeable. But I am hopeful we can get the appropriations through.

Mayor BARRY. Mr. Chairman, the Gunderson approach, the scholarship fund, is the only area there is any disagreement about. We support emphatically the rest of the Gunderson situation, and I understand what we're trying to do, trying to figure out a way to get low-income families who have children in public schools to have an opportunity to get scholarships.

The problem is, when the Federal Government puts this money into the pot, that then appears to some people to be a voucher.

Mr. DAVIS. I understand. I just hope we can work—whatever happens, we can continue to work——

Mayor BARRY. We want the rest of it, I tell you that, every nickel of the rest of it.

Mr. DAVIS. Let me ask one other question. You know, we work hard up here to help the city, keep it from being shut down because of the budget battle. But at the same time, we are seeing city employees themselves, on city time, and with city equipment, actively shutting down parts of the city with a demonstration.

In fact, there is an article today in the paper that showed the new head of one of the AFL–CIO was caught up in that traffic jam yesterday.

I just want to air this to you. We will be talking more about this, and this is not new, but it appears that it constitutes a misuse of public property. Then we hear that trash trucks were disabled and needed to be repaired. This would appear to constitute destruction of property, if that actually occurred.

In addition, we have heard reports that the city government intends to pay overtime to pick up the trash that wasn't picked up because of the demonstration.

Now sitting back where I sit, that just looks unacceptable, and I hope that you can take care of our specific concerns on this matter, or we could pursue this further at another hearing. I understand that this wasn't your demonstration, but that you were just reacting to it.

And I certainly understand the anger, the frustration, of a lot of city workers, because they have been put through the mill over the last couple of years. Even before you came on, this has been building.

But in the larger context—and I think I speak for a majority of Members here—we expect the District government to enforce its own laws and its labor work rules, and if city employees are paid to work they should not be condoned for illegal actions.

In addition, it appears that this demonstration, which should have been stopped—it was an obstruction of traffic and a breach of the peace—hindered an ambulance in taking someone to a hospital. This result is not a surprise. It is a perfect example of why such activities cannot be justified or permitted. There is a right way and a wrong way to make your point or protest an action that you don't like.

Mr. Mayor, you know that. You go way back. You were very successful in making those points during the Civil Rights Movement and other areas. There is a way to do it and a way not to do it. This was the wrong way.

I don't have a problem with legitimate expression of grievances, but Monday's actions, went far beyond that and must be dealt with, or similar actions will occur in the future with worse consequences.

I just hope that the city administrator can assure us that this matter is being pursued from a personnel standpoint, and that the Mayor can assure us that the Corporation Council is investigating any violations of District law. I would assume that if the Inspector General undertakes an investigation of this matter, that she should have your full cooperation.

If you can give us that assurance, I think we can put this to rest and go on with the rest of the questions.

Mayor BARRY. Mr. Chairman, a couple things. One is that I can say, unequivocally, we're not paying overtime for the trash. It was picked up by those workers who didn't do it during the day.

Second, even though you and I may be sympathetic to the workers, there's a limit as to what I can condone or support, and we referred this matter to the Inspector General to look at what rules were broken and not broken and recommend whatever action would be taken. It's not clear because, you know, this is an area that hasn't happened in a long time.

Mr. DAVIS. Well, a lot of the information is hearsay at this point. We only know what we read.

Mayor BARRY. But the Inspector General will certainly have my cooperation and the cooperation of the city administration.

Mr. DAVIS. OK.

Does anybody else want to comment on that? Otherwise, my 5 minutes is about up now. I am going to turn it over to Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

First let me say to all three of my colleagues from the city how much I appreciate this testimony, because here we hear about this issue not in abstractions, but it helps us come to grips with what actually happens.

As to cost, I understand, Mr. Williams, how difficult it is to calculate that, because the Federal Government has said it is very difficult for it. All we know is that it is very great and that much of it is not capable of being recouped.

I am particularly concerned at costs that perhaps can hardly be envisioned. If, for example, you are a Federal employee, and those are among our most stable taxpayers in this town——

Mr. WILLIAMS. I have one cost, Ms. Norton.

Ms. NORTON. Excuse me?

Mr. WILLIAMS. One cost we haven't talked about. We've had meetings, and the Mayor has been briefed on this and has been part of some of them, meetings with the rating agencies who are looking at the city and looking at the city's credit.

When they look at credit in jeopardy, such as a city, they look at the ability to posture the city to get out of its current status and back into the markets. For example, is there some disruption in the city or the Authority's ability to borrow? Is there some threat to the underlying reliability of that credit? And very, very importantly, are there obstacles to the city's financial recovery?

And certainly, disruption of the city by Federal shutdowns would be in that category and does not help the city in the kind of refinancing that we have to do, as the Mayor recalled.

Ms. NORTON. Yes, you can take this off in dollars of interest that the District will have to pay.

Our largest work force, of course, is not District workers, it is Federal workers, a very large taxpaying work force. One thing, among the things you can't calculate, is how many of those Federal employees will say, look, they can shut me down if I live in the suburbs, but at least they can't shut my services off. Another disincentive to remaining in the District, very tragic.

I called Janet Reno on the first day of the shutdown, after looking at the statute, and urged her to be helpful to the Corporation Counsel if problems arose on your interpretation of what was essential, and the chairman, of course, in his first question touched upon really the terrible question. Here you are essentially having to make a guesstimate—I can hardly think it was anything else—as to what is essential.

The statute clearly contemplating Federal agencies and not a living, breathing city, and, you know, you made some choices that at earlier times we didn't make. At the time of the first furlough, when we didn't say schools, the reason we didn't say schools is because the Federal Government wouldn't say schools, and yet, given the fact that the only kind of crime that is continuing to rise in this country is crime by juveniles, if you move back several steps and decide what is essential, you invariably get to schools.

I was impressed with what the Mayor said about recreation facilities, which goes to the same point. Let me ask you about the issue we have been discussing on the amount of money. Please be assured that my one-twelfth was foisted upon me by legislative counsel, the problem being appropriating in advance.

So legislative counsel informed us we certainly can't appropriate an amount in advance, because that surely is going to be scored and going to have very great difficulty.

But legislative counsel did say that it thought that a reasonable formula for appropriation would pass muster. After all, we have a Federal payment formula, don't we? That Federal payment formula is a formula in advance.

And the reason I didn't go above one-twelfth, again, on advice of legislative counsel, was that they thought if you appropriated by a very high formula, that you would not have a very good chance of getting any formula. I certainly didn't mean the one-twelfth to be a minimum—I certainly meant the one-twelfth to be a minimum.

The problem I have on the Federal payment, that I need all the help from you I can get on, is that the Congress would, I think, take its time to appropriate any amount of money for the District, even in a CR that was only a Federal payment CR.

Given what your testimony has been and what the testimony of the Financial Authority representatives has been, we are still left with a cash-poor city. And I say that even if this cash rollover problem is solved, given how your money comes in, when it comes in and when it doesn't come, which is like any business, like any city, I am still trying to figure that out, recognizing that at least you would be better off if you got your own, your own money.

And I would ask that, if not now, certainly before we go to markup, if we can find any way to speak to the Federal payment so that—and here the Mayor put it on the line. You are talking pension, you are talking $100 million of pension payment and Metro payment, and anybody who thinks that the District is going to, for some years now, be able to reach into whatever money it has on October 1st when you have said that is due and say, "Here, we're going to start paying that and we're going to stop paying this," doesn't understand what the competing obligations of a complicated city are.

So I think we are cutting off our own face—if we don't find something to do about the Federal payment as well, we are cutting off our nose to spite our face.

It may take some creative deep thinking, and we may not, as you say, get all we need, but the notion that, well, if you have a certain minimum amount, maybe they won't give you any more, because they will say you have a minimum amount, and I accept that that might probably be the case.

What I say on the other side is that if you have nothing, you may have nothing, for a very long time you may have nothing, given the way in which the Congress operates.

A lot of that would have nothing to do with venality. It would have to do with the fact that the District is the smallest appropriation; who cares? Haven't gotten around to it, don't want to take the time, then you are left there without any money.

I think that is irresponsible as well and ask for your thoughts on that. If you have any thoughts now, fine, but we can go forward later on when you work with staff.

Mayor BARRY. We'll confer this afternoon and talk to you and others and see if we can't figure out a realistic approach to how this could be resolved.

I think the other problem, Ms. Norton, is expectations if this bill passes and the expectation that we're going to be able to operate at an efficient level, and we'll be able to pay vendors, and all of a sudden we find out it really doesn't do what we want it to do; then you got another problem of raising expectations. In other words, a reality that you don't have the money to pay the pension fund or the Metro.

And, again, I underscore the fact that when you don't pay these people, we're paying interest on their money and add to our budget problems. That's just two. Not to mention some others, Medicaid and some other payments we need to be making. Our Medicaid

payments average $65 million a month, both Federal and local share. So you can see, again, that's a—that's a big number.

Ms. NORTON. I'd like to ask any of you—Mr. Williams may be closer in touch with the figures—again, going back to the Federal payment point, is there enough cash—was there enough cash on October 1st to pay the competing debts of the District of Columbia?

Mr. WILLIAMS. I wasn't here, Ms. Norton, on October 1st, but I can assure you there wasn't enough cash to pay all the debts, for the simple reason that we inherited from last year alone $342 million to begin with in obligations. As Mr. Hill reported, $200 million in various deferred outlays to vendors. So——

Ms. NORTON. Were you able to use, or did you use, any part of the Federal payment to pay the rollover debt?

Mr. WILLIAMS. As it's been recounted in testimony earlier, as the Federal payment came to us, an amount to repay last year's advances on the Federal payment was deducted immediately.

Ms. NORTON. So how much cold hard cash did that leave the District with?

Mayor BARRY. Ms. Norton, let me speak to that. We had $115 million of Medicaid vendor payments due as of September 30th that weren't paid on October 1st, and we had over $130-some million on regular vendor payments that were in the queue to be paid that have not been able to be paid. So you are talking about over $200 million on October 1st.

Ms. NORTON. How much money did you get on October 1st?

Mayor BARRY. The Authority, as you know, had $70 million for vendor payments and $53 million for our pro rata share. We didn't get it on the 1st until we started paying down out of our own money these vendor payments. They kept it until last week, I think, some portion of it.

Mr. ROGERS. Then we also had as part of the Federal payment a drawdown, $147 million that we had to repay Treasury. So that was—that was gone before we saw it.

Mayor BARRY. So we needed, I guess, in summary, Ms. Norton—on October 1st, we needed at least $200 million.

Ms. NORTON. And you got? In terms of cash you could spend, I understand you got $147 million for Treasury. They got that. I'm trying to find out, in light of what you needed and what you got, how short you were.

Mr. WILLIAMS. Well, as the Mayor recounted, the original amount after the deduction for last year's advance was around $150 million. But then that flowed through the Authority, subject to a demonstration of criteria for making these payments.

I think—I think everyone agrees there was a shortage.

Mayor BARRY. Also, Mrs. Norton, since the Authority and the city were working at this for the first time, we have had, in my view, refined and rediscussed how we get the money from the Authority.

For at least 2 or 3 weeks the Authority had over $100 million of the Federal payment that we hadn't been able to draw down because they thought our balances were too high. But I think that's been resolved now, where they know what our balances are at the end of each day and our cash-flow, and so therefore the money will come instantly. But it shouldn't have been held that long, but it was.

Ms. NORTON. I wish you would explain that again, because, as the saying goes, all I know is what I read in the newspaper. The newspapers were telling that there were all these payments outstanding, vendors calling. Of course, as the chairman says, they call us, too.

What does it mean that it looked like you already had the money over there and therefore you couldn't draw down from the Authority what was needed? I don't understand that.

Mayor BARRY. The first continuing resolution allocated, I think, $70 million for vendor payments.

Ms. NORTON. That is right.

Mayor BARRY. And about $50-some million, our daily prorated share up until November 13th. And so if you take the $70, $50, so it was over $100 million that the Authority had, because they get the Federal payment first, and they then disburse it to us to put in our bank account, and for a period of time they held the money and we didn't get it. I can find out precisely how long, but it was, in my view, Mrs. Norton, too long. But, again, that's been worked out where they now know what our balances are.

Before Mr. Williams came, I said to the Authority, "We need the money now." But for whatever reason or another, we didn't get it now.

Mr. ROGERS. The first continuing resolution allocation, I believe it was $270 million to the District, of which $147 went to repay the Treasury loan. The balance went to the Authority and then was allocated to us based on the presentation of—to them, of demonstration to them what our payment priorities would be for the disbursement of those funds.

Ms. NORTON. Wasn't there an amount of $70 million or so——

Mayor BARRY. The bottom line, Mrs. Norton, is that the Authority has the Federal payment that was left from having paid the Treasury. In our view, that should have been disbursed.

Ms. NORTON. Let me ask you about the $70 million. As I recall, that was supposed to go for vendors' payment. Here I am speaking for the vendors now. This wasn't going to you in any case. Was that money released so that you could pay vendors?

Mr. WILLIAMS. I think that this has all been worked out, Ms. Norton. I think that criteria have been established to the satisfaction of the Authority.

We have a briefing today to the Authority on our disbursement schedule for vendor payments on the basis of our cash-flow. We had the briefing with the Mayor, and I think that this whole issue with the flow of payments has been resolved.

There has been some conservatism in holding payments, but there has been, I think, great uncertainty in terms of our future revenues, receipts. That's being——

Ms. NORTON. Future receipts from the District or from——

Mr. WILLIAMS. From all sources, to our cash pool. But I think this is being abated.

If, for example, we are able to receive the loan that the Mayor has requisitioned from the Treasury and/or our Federal payment to the amount we need it, we'll see an abatement of these pressures, although they will return, and that gets to the Mayor's point, his

strong point, that ultimately we need a refinancing of this debt as part of our overall financial recovery.

Ms. NORTON. Didn't I understand that the Authority agrees with that and believes that, if there is a plan, it would seek to help you?

Mr. WILLIAMS. I think that if you have a deficit financing plan, coupled with the kind of rethinking transformation the Mayor is talking about, that's a strong signal to the markets and to the public.

Ms. NORTON. Well, is the city developing a plan to deal with the rollover debt now?

Mayor BARRY. The answer is, as I said earlier, I had spoken with Mr. Williams and Mr. Rogers and others about us putting together. It's in our heads, a lot of us have ideas about it, but to put it down on paper and present it to the Authority and to the public as to our plan for repaying this money, or closing this gap——

Ms. NORTON. I would urge—I would urge you to do that as quickly as you can, because I can understand the problem it is causing.

Let me ask one final question. It has to do with a point that Chairman Walsh of our subcommittee has made over and over again. He has alleged that there has been chronic overobligation in the District for years and that it caught up with us when, of course, the District went over the side.

I have a hard time understanding, Mr. Williams, how you can accomplish your job consistent with the Financial Authority bill on short-term—short-term CRs.

Now I may be missing something, but in my own mind, I try to call up at least some of the obligations I know must be met, and the ones that occur to me first off are payroll and AFDC. You can't say to the AFDC, "Well, you must fund half of the payment; you'll have to wait until next week."

Could the District, with a short-term CR, which I take it means you have to calibrate very carefully how much should be spent approximately on a daily or at least frequent basis—couldn't you find yourself in a position that, with unfunded mandates and other mandates, that a short-term CFR just wouldn't work at all without overobligation? Couldn't that be possible?

Mr. WILLIAMS. I would distinguish obligation from expenditure. You know, the Mayor, I think, is taking leadership. He's working with the Authority in setting an obligation level at the conference mark, notwithstanding the fact that we haven't had the budget. That's, I think, leadership on the obligation side.

In terms of expenditures, we have a set of priorities for making actual disbursements. If we don't have relief in a month, 2 months, we're going to go higher and higher up the priority scale.

Ms. NORTON. What do you mean—excuse me—higher and higher?

Mr. WILLIAMS. More and more triage in terms of what disbursements can actually be made.

Ms. NORTON. So the way you do it is just drop off as much as you could in order to meet the things that simply must be met, the debts that must be met?

Mr. WILLIAMS. I would look at the budget cycle in terms of the overall control. Ultimately you want to have control in terms of matching expectations to plan; then control in terms of obligations,

our obligations being made according to plan—big, big issue; and then finally, if all else fails, controlling disbursements and controlling the cash according to some emergency plan.

Mayor BARRY. Ms. Norton, Congressman Walsh knows better, in the sense that he knows that there are four or five discrete areas in the District's budget—I can describe some of those—that have been over the years underfunded. He knows that.

Take Medicaid, for instance. He knows that's where the overspending occurred in 1994 and 1995. The same is true of the AFDC. The same is true with foster care, and the same is true with a couple other court orders.

But in the overall aggregate, look at the other agencies of government. You'll find this: They were not overspending. We have very good records, information on where the overspending occurred.

Now, in 1994, I suspect there was some decisions made which—I wasn't there—allow Public Works to over spend, but that was a conscious decision on somebody's part. That was having roads and things done during that particular year, as you probably know. But the District knows exactly where there are pressures on overspending.

On the other hand, Mr. Williams has a heck of a time trying to bring some stability to this budget on these short-term CRs. I mean it goes back and forth. We're now trying to work out a way where we take it to 4.994, which we think eventually will emerge; however it emerges, either through a long-term CR or our bill.

And then I am going to make a recommendation to the Authority about how to redistribute that 4.994 and try to bring some stability. It is—Ms. Norton, I can't begin to describe to you the problems and the frustrations and the uncertainty that this creates.

Mr. ROGERS. Let me say, if I may, that we have got to solve this budget problem. But from an operation standpoint, as being the one for the Mayor and for the citizens of this government on the front line every day trying to solve operating problems, we have got a cash problem. The fact is that if I have a fuel oil vendor that hasn't been paid in 2 months or 3 months, and they are threatening not to deliver fuel oil to our hospitals, to our prisons, because they can't take it any more, they have to get our attention. That is an operating problem that hits us in the face, and it is not the budget that solves it, it is the cash problem that we have got to address in order to solve these frontline operating issues.

We are going to do the financial plan and meet all of the requirements of the new act. But the bottom line: We can do that; we can cut this budget. If we don't solve the cash problem, we are still going to be faced with the specter of spending a disproportionate amount of our time trying to figure out who not to pay, because we don't have the cash.

Ms. NORTON. Well, Mr. Williams' answer really scared me, because it looks like, you know, he spends what he has, but in terms of obligating, he has to be very careful altogether. He knows what money he has to put up for AFDC or for payroll, but it looks like, in terms of running the city and obligating the city's money, he is aware of the problems that are inherent, and the particular position he is put in, I think, is an untenable question.

I just have one question in light of the testimonies received here earlier, and that is for Mr. Williams.

Do you believe you need any further guidance from the Congress in order to avoid overspending should this authority—should the authority in this bill be granted for the District to obligate its own funds?

Mr. WILLIAMS. Mrs. Norton, I heard the exchange between you and Mr. DeSeve, and I think that the—for our purposes, during a control year, the language in the bill, I think, imposes on the District adequate controls.

You've got the oversight not only of this Congress but through the authority of the Congress, the Mayor, the CFO, a number of parties I think are going to be very, very diligent in erring on the conservative side in terms of expenditure control.

I think what the Mayor said, taking this conference mark, for example, and setting spending limits on that mark, is a conservative gesture. There are going to be real program cuts that the Mayor is deliberating on right now that have to be made to do that.

So I think there's no lack of willingness on the part of the District or all the different parties to do what has to be done.

Ms. NORTON. And I think that no lack of controls. I just—I hate to spend—see people spending time on controls when we have already put them in place, seeking more controls.

I want to thank all of you for your testimony. I wanted to thank the chairman for his indulgence.

Mr. DAVIS. Thank you very much. Your 5 minutes just expired.

We appreciate the panel. Thank you very much.

Mr. DAVIS. I'm now pleased to call our last panel: Mr. Charles Hicks, the executive director of the American Federation of State, County, and Municipal Employees; David Schlein, the national vice president of the American Federation of Government Employees; John Tydings, the president of the Greater Washington Board of Trade; and Dr. Marlene Kelley, the deputy commissioner for public health of the District of Columbia.

Mr. Hicks, I apologize. You are the president, the staff just corrected me, you are not the executive director, you are the guy who makes the decisions, not the guy who does the work. Isn't that the difference between the president——

Mr. HICKS. That's not totally how it is.

Mr. DAVIS. As you know, it is the policy of this committee to swear all witnesses before they testify. If you would rise with me and please raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. Thank you.

All right. Why don't we start—Mr. Hicks, why don't we start with you and then go to Mr. Schlein and then the president of the Board of Trade—I see John was here earlier and had to leave—and then Dr. Kelley. Please.

STATEMENTS OF CHARLES HICKS, PRESIDENT, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL WORKERS; DAVID SCHLEIN, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; DIANE DUFF, DIRECTOR OF FEDERAL AFFAIRS, GREATER WASHINGTON BOARD OF TRADE; AND MARLENE KELLEY, M.D., DEPUTY COMMISSIONER FOR PUBLIC HEALTH, DISTRICT OF COLUMBIA

Mr. HICKS. Good morning. My name is Chuck Hicks. I'm president of AFSCME District Council 20, representing approximately 7,000 employees.

Congressman Davis and committee members, I wish to thank you for the opportunity to speak in support of bill H.R. 2661. We feel, first, that this bill supports the concept of self-preservation to conform with home rule. We believe that since the majority of our moneys are from our citizens, we should not be held hostage when Congress is in a political debate over the budget.

I'd like to focus on three agencies in D.C. government to show the effects of the shutdown on the D.C. government upon the citizens of the District of Columbia. Those agencies are the Department of Human Services, Consumer and Regulatory Affairs, and the D.C. Public Library.

The Department of Human Resources includes such agencies as income maintenance, which encompasses aid to families with dependent children, Medicaid, food stamps, child support services. It is also an agency that sometimes generates revenue.

Because of the limitation placed by the court system on certain agencies, they are required to meet certain deadlines. If certain procedures are not implemented in a timely fashion, the city could be fined. To avoid these repercussions, overtime money would be necessary.

Also, the citizens suffer, those who receive food stamps. An average of over 1,600 food stamps must be processed weekly for people to get them by the first of the month. If the agency is closed for 4 days, that means either the person's stamps will be late or the staff will have to work overtime, which will cost the city money to get them out.

In the area of consumer and regulatory affairs, in the Department of Consumer and Regulatory Affairs, which is a revenue-generating agency for the District, where permits such as housing, electrical, and professional licenses are issued, along with the inspection of such establishments as food, hospitals, and housing, which is sometimes vital for the establishments to open. When this department is closed, the city loses revenue.

For an example, if a man needs a permit for a certain date to open his business, and if we're not open, he can't open. Therefore, he loses money, as well as his staff may not be paid.

With the D.C. Public Library, at the D.C. Public Library we had to cancel at least 100 children's programs that offered preschool and elementary classes. In addition to this, over 137 civic group meetings were canceled, with a little over 3,000 in attendance overall. Libraries typically also provide reference services for over 50 percent of the homework assignments given to school kids. Although schools remained open, many assignments went undone. Unlike many other agencies that were only closed 4 days, the li-

brary was closed for 6 days because we are open Saturdays and Sundays.

In conclusion, the citizens of the District of Columbia are done a great disservice when these above mentioned agencies as well as other agencies are closed and cannot function through no fault of their own, on the part of the citizens, because of the political debate of the Congress.

Thank you.

Mr. DAVIS. Thank you very much.

David Schlein.

Mr. SCHLEIN. Thank you, Chairman Davis and Congresswoman Norton.

My name is David Schlein. I am a 20-year resident of the District of Columbia, and I have the honor of serving as national vice president of the American Federation of Government Employees, AFL–CIO. AFGE represents approximately 5,000 D.C. government workers and about 700,000 Federal workers.

With me today, and I'd like to acknowledge, is Mr. Roscoe Ridley, who is president of AFGE Council 211, which is comprised of our D.C. government workers' local unions. If Mr. Ridley could stand.

Mr. DAVIS. Thank you very much for being here.

Mr. SCHLEIN. And I'd also like to acknowledge that we also have several other local leaders here, and I'd like them to just stand for a minute to be acknowledged.

Thank you.

Mr. DAVIS. Thank you all for being here.

Mr. SCHLEIN. I would like to thank you for this opportunity to testify.

AFGE strongly supports H.R. 2661. Unfortunately, our members in the Federal and District government are all too familiar with budget-impasse-driven lockouts. We strongly oppose such lockouts or furloughs, whenever they occur.

When government workers, who take pride in the work we provide to our city and our Nation, are told we cannot come to work, we are demoralized. When we are branded by the media and others as nonessential instead of nonemergency, we are humiliated. When we see the waste of taxpayers' money caused by the lockout, we are frustrated.

That is why we applaud H.R. 2661, which we consider a bill to ensure good government.

The D.C. government should be able to spend the funds that it generates locally if the D.C. appropriations bill has not been completed in a timely manner.

During the last furlough, many services provided by D.C. government, which our citizens routinely depend on, were suspended or delayed. Most of these did not fit the emergency criteria of the Antideficiency Act but are still services that are vital to our citizens.

For example, in the Department of Public Works, license renewal and traffic adjudication were closed, delaying the receipt of cash that desperately is needed in the city. Water billing and adjustments of water account sections were closed, also adding to cash-flow problems in the Water and Sewer Utility Administration.

At the Department of Employment Services, Workers' Compensation and disability claims processing came to a halt, even though the funds to pay the claims have already been paid and allocated by private firms and the D.C. government.

The Wage and Hour Division closed, forcing delays in payments due to citizens.

The Parole Board was closed for the first several days, although the parole officers were asked to report on Friday, November 17, 1995. This was in recognition of the fact that the public safety, while not threatened immediately, became a threat when parole officers could not maintain contacts with parolees.

At the Department of Recreation, after-school programs were canceled, forcing working parents to find alternative arrangements.

At the Department of Human Services, neighborhood clinics were closed, forcing citizens to seek treatment in costly emergency rooms or to delay medical treatment entirely. And I see one of the panelists here will talk about that in much more detail.

These are but a few examples of the programs that could have been continued with the use of local funds. We believe it was unfair to the city's workers and the public to shut down the D.C. government because of the budget dispute taking place in the Federal arena. H.R. 2661 provides a fair solution to this problem.

Before I close, I want to thank Congresswoman Norton for offering this bill and to thank you, Mr. Chairman, for your efforts to see that D.C. and Federal workers are treated fairly during a budget crisis. Your efforts and other Members', and those of other members of this subcommittee, are greatly appreciated.

I of course am available to answer questions.

Thank you.

Mr. DAVIS. Thank you very much.

John Tydings isn't here. We have Diane Duff from the Board of Trade.

Ms. DUFF. Thank you, Mr. Chairman.

My name is Diane Duff, and I am the director of Federal affairs for the Greater Washington Board of Trade. I am going to do my best to fill in for John Tydings, who apologizes for having to leave early due to a constituent service demand, something I'm sure that you all can appreciate.

As a regional organization representing over 1,000 businesses located in Northern Virginia, suburban Maryland, and the District of Columbia, I'd like to associate the Board's comments with your comments earlier, Mr. Chairman, about characterizing the shutdown as something that might not have been particularly wise.

Since our formal testimony echoes many of the points that you have heard over and over again today, I'll not bore you by simply reading our statement, but I would like to highlight just a few points of our testimony.

First of all, we are clearly in need of stability here in the District of Columbia. The District is a city in turmoil, and anything that can be done to improve the stability in the District is something that needs to be pursued immediately and quickly. So we thank you, Mrs. Norton, and Mr. Chairman, for your leadership on this issue.

Second, the Board of Trade feels very strongly that economic development is clearly the solution to the District's long-term fiscal problems. Economic development will expand the tax base and improve revenues, and Federal shutdowns such as we've experienced earlier this year clearly impede our efforts to improve economic development in the city.

Third, as I just noted, we have a range of image problems that already exist. Shutdowns exacerbate those problems through national media coverage and so forth.

And my final point is that we spoke with you, Mrs. Norton, last week about the study that we're doing on Federal downsizing. The next phase of that study will be looking at the economic impacts of continuing resolutions. So we hope to be able to give you some more information on that as the next phase of our efforts is completed.

Thank you again for this opportunity to testify, and I'll be happy to try to answer any of your questions.

[The prepared statement of Mr. Tydings follows:]

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TESTIMONY OF JOHN R. TYDINGS, PRESIDENT THE GREATER WASHINGTON BOARD OF TRADE

before the

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT U.S. HOUSE OF REPRESENTATIVES

December 6, 1995

Thank you, Mr. Chairman and the members of this subcommittee, for the opportunity to testify before you today. My name is John Tydings, and I am the President of the Greater Washington Board of Trade. The Board of Trade is a regional chamber of commerce representing over 1,000 companies and over 350,000 private sector employees in Northern Virginia, suburban Maryland, and the District of Columbia.

Mrs. Norton's legislation, H.R. 2661, which would exempt the District's budget from the highly politicized national budget debate, would provide a certain stability so critical during this time of financial crisis. By preventing future federally-initiated, unscheduled government shutdowns, the Congress can limit complications to efforts already underway aimed at restoring fiscal stability in the District of Columbia. Mrs. Norton's bill would also provide some assurances to City businesses and residents that their services will not be a victim of national politics.

Fortunately, over the years, shutdowns have been few and short in duration. But this last shutdown was undoubtedly the longest in history. No other city in America was impacted in the same way as the District of Columbia. Yes, it's true that the City's employees were forced to stay home, and that their income for that period was in question. That likely resulted in further frustrating the already dwindling morale among employees that are struggling to uphold their responsibilities from day to day; Mrs. Norton and others here today have discussed this at greater length.

But if you are not concerned about the employees themselves, consider the 570,000 taxpaying residents and the countless business establishments that could not rely on even the most basic of municipal services, such as trash collection. One week of delay in licensing and permitting, inspections and other business-related regulatory processes increases costs in what is already a costly and overly complex regulatory environment and further hinders economic development activities crucial to the City's future. These are services that are largely paid for by locally generated revenues. It is this element more than any other that is at the root of our membership's concerns regarding the impact of a government shutdown specifically, and the erosion of the tax base generally.

The Board of Trade and the entire DC business community has been diligently working with the City, and more recently with the Financial Responsibility and Management Assistance Authority, to address the chronic problems that have contributed to the continued erosion of the City's business community and middle class tax base. Further, we are committed to continuing our efforts to help the City achieve tax parity with

the region's suburban jurisdictions. However, cutting off essential municipal services for businesses and residents because of national politics undermines our efforts and gives one more reason for the erosion to continue. Shutdowns also attract national media coverage automatically reinforcing unfavorable perceptions about the Nation's capital. I know that the members of this subcommittee would agree that this is no way to begin efforts to revitalize Washington, DC.

Finally, I understand that some Members of Congress are concerned that should the District be exempted from the larger federal budget debate, there no longer would be a distinction between which other federal agencies deserve the exemption and which do not. No matter how individual Members of Congress may view their constitutional oversight responsibilities for the District of Columbia, we cannot forget that this is a living and breathing City, with residents and commerce and municipal responsibilities of its own. It is a unique federal entity and one that cannot and should not be compared to any other federal department or agency.

In summary, the Greater Washington Board of Trade fully supports this subcommittee's efforts to allow the District of Columbia government to remain open during a federal shutdown under the spending parameters outlined within Mrs. Norton's proposal. The City's critical municipal responsibilities should not cease to function because of the national debate over the method and the means of balancing the federal budget. I commend you, Mrs. Norton and Chairman Davis for your leadership on this issue, and I urge this subcommittee to act quickly on this issue to preclude any further

detrimental impact that might result from what may yet turn into another federal shutdown on December 15.

Thank you again for this opportunity to testify, and I will be happy to answer any questions you may have.

Mr. FLANAGAN [presiding]. Thank you very much.

Dr. Kelley.

Dr. KELLEY. Good morning, Mr. Chairman and Congresswoman Norton and other members of the subcommittee.

I'm Dr. Marlene Kelley, deputy commissioner of public health for the District of Columbia, and I want to thank you for the opportunity to personally communicate my concern for the health and safety of District residents and the critical need to enact legislation that would enable the District of Columbia to continue normal operations in the face of the possibility of yet another Federal shutdown.

I'm not only responding to this opportunity as a government representative but as a practicing physician who regularly delivers health care services to families in the city's neighborhood health clinics.

The District of Columbia Commission of Public Health assures equitable access to comprehensive primary and preventive health care programs and services for District residents. The public health programs directly administered by the Commission of Public Health include the surveillance and control of infectious and communicable diseases, including HIV and AIDS, sexually transmitted diseases, tuberculosis, and vaccine preventable diseases; the provision of primary and preventive health care services at 11 community-based neighborhood health centers located throughout the District of Columbia. They're school-based health services; health care services to adjudicated youth and long-term care services.

We also provide services for the identification, treatment, and prevention of substance abuse; programs that provide comprehensive maternal and child health care, and nutrition services for women, infants, and children; and the Commodity Supplemental Food Program for children and the elderly.

In addition, the Commission registers, maintains, and provides access to birth and death records and assures the readiness of an effective and coordinated system of emergency health and medical services.

The Commission of Public Health provides a vital link to critical and essential health care services for the District's many uninsured and medically underserved residents. We provide services to individuals and families with both acute and chronic illnesses. I myself continue to see patients in the Walker-Jones Neighborhood Health Clinic, delivering care to patients to whom I have delivered health care services for the past 25 years.

There are many patients like mine whose only source of health care are the neighborhood health clinics operated by the Commission of Public Health. There are approximately 200,000 patient visits annually in the District's neighborhood health centers. These families depend solely on the District centers for primary and preventive health care as well as any emergent medical needs. There are prescription and pharmaceutical services, social work, and nutrition support.

Interruptions in these critically needed services impact the health of thousands of District residents, especially those suffering with diabetes and hypertension, and pregnant women needing pre-

natal care, where the timely availability of medical care does make a difference in the outcome of their illness or pregnancy.

The lack of availability of food supplements for women and formula for infants creates a critical situation for families that depend on the Commission's nutrition support teams for these services. Many infectious and communicable diseases like tuberculosis and sexually transmitted diseases such as syphilis and gonorrhea, were untreated and may have resulted in the spread of disease to other people in our community and, in the case of tuberculosis, may lead to the development of drug-resistant organisms.

In addition, there were persons who had been tested for HIV and AIDS and were awaiting test results and were unable to obtain them in a timely manner. It's not hard to imagine that any delay in the receipt of test results provides patients with cause for increased anxiety and may have contributed to the spread of the disease to other persons.

Interruptions in access to these outpatient services encourages the inappropriate use of the city's public and private emergency departments, already overburdened. This may not only result in the excessive and inappropriate use of emergency medical resources but ultimately will result in higher costs for more intensive services being billed to Medicaid.

Emergency action by the city was required to make available support personnel such as transportation and security staff to ensure the many necessary items and pharmaceuticals required by our 24-hour facilities and substance abuse clinics and other programs.

We strongly support Congresswoman Norton and the efforts of this committee to create a permanent continuing resolution for the District of Columbia to permit the District to use its own resources to continue municipal operations that provide vital services to residents and visitors to the Nation's Capital.

Thank you for the opportunity to provide testimony before this committee on H.R. 2661, the District of Columbia Fiscal Protection Act of 1995, and I would be pleased to answer any questions also.

Mr. FLANAGAN. Terrific.

First, without objection, I'd like to permit any member to place a statement in the record at the beginning of this hearing, and without further eloquence, I just will yield to Ms. Norton to begin the questioning first until Mr. Davis returns and resumes.

Ms. NORTON. Thank you very much, Mr. Chairman.

First let me say how much I appreciate all four of you coming to testify. I know this hearing was held on short notice. Mr. Davis certainly did not want to proceed without getting a real life sense of what a shutdown means, and I appreciate the fact that all of you have focused on the effect of the shutdown on services and on residents, and I'd like to ask a question, since we had two representatives from our major unions here, about the impact on employees.

I know that you have focused, and I commend you for focusing, on the services that these employees deliver. But occasionally we read statements, perhaps you read some of them in the paper, that while these employees got paid for not coming to work, what are they crying about?

I wonder if you could speak in greater detail about the effect on employees and why employees themselves would not desire their agency to be shut down.

Mr. SCHLEIN. I think that's a critical question, and I think it's true of all government employees, but it's even especially true in the District of Columbia.

In the District of Columbia, first of all, if you just look at the last year, it's been an incredibly difficult year for D.C. government workers. Early in the year, D.C. government workers stepped up to the plate; they took a pay cut, they agreed to certain voluntary furloughs, or involuntary furloughs, in order to help the city face its very difficult budget situation. While many others didn't step up to the plate, we did.

And then, on top of that, we are asked every day to go to work and to provide service to the public, which we're proud to do, but under also very difficult situations.

So there was a real cost involved with the government closing down. Our members knew that the work was not going away, it just meant that the work was being deferred, and they were frustrated, having to sit at home, knowing that there was work to do, that the public needed to be served, that there were real consequences of not being there, and it had really, I think, a very demoralizing effect on D.C. government workers. It was another—it was another unfair shot, in their view, taken at them, as they struggled to perform the work that the city and the community needs to have done.

Mr. HICKS. I think that, in addition to that, there were certainly several other things that happened with D.C. government employees. No. 1, I think there becomes—not only D.C. government employees, I think Federal employees, too. One, just the concept that we don't like our work or we don't care about what we do is a misconception, that no way can you work in a place like D.C. Village, where you're working with impaired individuals, and not begin to feel sensitivity for them and what's going to happen to them and when they need what they need, when employees are working with a shortage of equipment and supplies. But also for those many employees who work with the public, that's a tremendous amount of stress that you're faced with.

When a person goes in, and they expect to get their food stamps, and they say, "Your voucher isn't ready," they don't say, "Oh, I understand." They get all type of verbal abuse, from no fault of their own, for whatever system, whatever the problem has incurred.

So not only are we talking about pile-up of work, but we're talking about a tremendous amount of stress placed on the employee, and that we are encouraged to be nice, to accept this abuse, and it's hard, it gets very difficult, and that—that's very, very difficult for employees to take, and I think that's a major impact that employees face, is abuse from the public or not appreciating what the problem is or what the situation is.

Dr. KELLEY. If I could just add, that from the perspective of those employees involved with health, many of the employees have developed sincere relationships, not only with the individuals but within the communities that they serve, and for them not to be able to deliver these vital services, creates a mental problem for the employ-

ees. That's very, very stressful for them knowing how much needed these services are and yet they are unable to deliver those services. So it's a problem.

Ms. NORTON. Dr. Kelly, I can particularly see that in your area. I was astonished to find that, again, recognizing that they had to abide by the law, the District actually closed down the clinics, only gradually opened them up and closed down clinics dealing with communicable diseases as well. Nothing I think points up how poor a fit the governing statute is to a city as opposed to a Federal agency.

As I—if a patient could not—of course, I should preface this by saying we have these clinics in part because they save us money. Not only do they serve people better, but it means that people don't end up going to our city hospital or elsewhere where it costs more to serve them.

Now, when these clinics were shut down, if a person needed service, medical service and were used to getting that medical service from a clinic, what was the alternative during the—any period that a particular clinic may have been shut down?

Dr. KELLEY. Well, the citizenry were given emergency numbers that they could call and there were many of us who were at the Commission of Public Health and tried to work with the numerous telephone calls that we got, and then we had to direct the patients, those that had emergencies that needed to be taken care of, could have been taken care of in the clinic but since they weren't open, we had to refer them to the hospitals and many times talk to them about what they could do in terms of trying to get their medications and keep their prescriptions filled. This kind of information we gave to the best of our ability and then had to refer them to D.C. General, for the most part, for assistance in that area.

Ms. NORTON. And I just want to note that emphatically for the record. Here is a hospital that is under most severe stress, where the District has been trying to keep people from going to the hospital and you are left with no alternative but to increase costs to the District by actually referring people who do not require emergency room service to essentially the emergency room.

One more question about the effect on the District. I'm very, very pleased to have the testimony of the Board of Trade here, because again by necessity we of course have been focusing on services to District residents. Anyone who does business in the District of Columbia of course does business to many people who live in the region—does business because many people live in the region come into this city.

With the District government closed down and the Federal Government closed down, what kind of—what component does that take out of normal business receipts, some of which would flow in taxes to the District of Columbia?

Ms. DUFF. Well, it tends to be industry-specific. I mean, certainly I'm sure that you would hear restaurants were hurt more than many other types of businesses. But across the board, our members, small and large, were regaling us with stories of how their inventory problems arose, servicing customers was more difficult and receiving basic services were unavailable. Simply having the problem of not having your trash picked up, not being able to get

building permits or inspections, those are the kinds of things that are—that result in very costly delays for all sorts of business activities, so while we have not been able to really quantify the impacts, it certainly did have a very large impact on the business community.

Ms. NORTON. Well, the regret goes far beyond the business community. The District has had even in the best of times a very hard time holding onto business. It is impossible to run a business in the District at the same cost that one does it in—in the suburbs. And again, we have a compounding of problems that will never be documented I think fully because of the way in which those expenditures flow.

Thank you—I want to thank you the—first, the panel for very enlightening testimony, and I want to thank the chairman as well.

Mr. DAVIS [presiding]. Thank you.

Let me ask a couple questions. Let me thank you for being here.

You are a very important part of building the record for this legislation, knowing not only how it affects the citizens of the city, which we have heard earlier, but how it affects the rank-and-file workers of this city who are out there trying to do their jobs every day and have been under tremendous pressure over the last 2 years with the downsizing at the District level. And, of course, the business community which has suffered as well. And the health side of it, in terms of how this is affecting people who are in need.

And I think we all recognize that we have got some difficult questions still ahead. The key is to keep talking to each other, to try to communicate with each other to recognize that unfortunately change has to happen. It's occurring at the national level, it's happening in businesses and local governments across this country. But to try to be there at the table as the decisions are made and have it done in the fairest way. I think that's all we can legitimately ask.

I hope there will not be a lot of congressional micromanagement of this. You have a control board and a city government that are dealing with some tough problems, and the last thing they need is for us trying to pinpoint things and micromanage what we are interested in. The bottom line hasn't be been met yet. We still have some tough decisions.

When I was in Fairfax, our decisions many times had to be, do you downsize or does everybody get a pay cut, employees across the way, or try to save jobs. We did this in a dialog with employees where we could try that balance across the way.

I have to say it is not the subject of the hearing today, but I had mentioned earlier the problem with the traffic stoppages that I think hurts the overall cause. I think whatever happens from that in terms of violation of laws, will happen. But over the long-term if we are really going to continue a dialog, I will pledge to you our best efforts.

I know the control board will, and I will work my side of the aisle to see if we can get some fair resolution of this. But people are being hurt when traffic is stopped, when trash trucks are circling, when bridges are blocked. They have nothing to do with our disputes and it only hardens them in a way toward the people who

are blocking the bridges when they ought to be in sympathy with those people.

I understand the frustration that many working people in the city feel right now. All I can say is that there will continue to be tough decisions. There are tough decisions at the Federal level as we sit here and work about balancing the budget. But let's try to have a dialog and do that first.

If at that point you are still frustrated, come see us and let us know. It just puts everybody in an untenable position and it divides people who ought to be allies and puts them on opposite sides with the kind of traffic stoppages we have.

It is not just my constituents. I saw Mr. Sweeney, the head of the AFL–CIO, was caught up in the traffic jam the other day that was caused by the trash trucks circling at Thomas Circle. So everybody ends up being hurt in many cases. They stopped an ambulance in that case which was an unintended consequence of their actions.

Let's try to work together. Let's recognize that we're not all going to get all we want. And certainly the working employees of the city know that. It has been a couple of tough years, and I recognize that. Ms. Norton recognizes that. The Mayor, the council are sifting through some tough no-win decisions for them. Let's just keep that dialog going.

I would be happy if you would like to say anything now. We can do it at a later hearing. I would ask you to please refrain from trying to escalate this rhetoric on the traffic, because we have no choice here in Congress but to come down very hard on anybody with noble purposes. I just want you to understand that it's not being addressed where we might be in sympathy with the issue.

Mr. FLANAGAN. Mr. Chairman.

Mr. DAVIS. Let me just yield, and I will give you a chance to respond.

Mr. FLANAGAN. I think it is important to note in the record, not withstanding your excellent comments, that the activity that was participated in was illegal. This is not legitimate union behavior. This is illegal activity under the D.C. Code, and I think that's important to part of the discussion.

Mr. DAVIS. I had made that point earlier, too.

Mr. FLANAGAN. I thank the chairman.

Mr. DAVIS. I made it earlier on. I think we know that. I understand the frustration. I think Ms. Norton does. I don't mean to sugarcoat it, though. This is going to be a congressional response as opposed to a city response or a control board response, and I'm not sure that's better. So we understand. You don't have to say anything, but if you'd like to, that's fine.

Mr. SCHLEIN. I want to just say I appreciate your offering the good services of your office, and you know, certainly I don't want to talk about any of the details about what happened, as you said, this is—this isn't a hearing on that. But the—I would want to just emphasize that the workers that we represent want to be a part of the solution to the city's problems.

We have well-demonstrated that with the sacrifices we have already made, and it is increasingly frustrating, we feel, that we're shut out of the process. And the fact is that we have been shut out

of the process with the control board up until this point, that decisions are being made that directly affect the workers of the city, that decisions are being made that have real impact on the people we represent, their lives and their livelihoods. And up until this point, although now I understand that's rectified, the control board has not responded to requests from the city's unions to meet with us and to get the side of the story from those people who are doing the work.

And we certainly hope to be able to use your office's good graces to try to remedy that. We appreciate the efforts that have been made by Congressman—Congresswoman Norton, excuse me, to remedy that.

Mr. DAVIS. Please.

Mr. HICKS. I'll wait.

Mr. DAVIS. The only thing I would say is I appreciate that and once again, it's only hardening positions in a way that we don't need to do. I hope we have made our point and we are at the table and at least talking so we can all call it a win.

I appreciate your comments. We have sketched out where we are on this issue, and I consider the AFGE and AFSCME and these other groups to be part of the solution in the end. We need to work together on this.

You can't run a city without the working people who are out there every day and, frankly, government has made a lot of decisions that are destroying the morale of the Federal employees and city employees, and it is unfortunate. That doesn't help us in the productivity side of it.

Mr. HICKS. It certainly was a difficult decision that we had to make in terms of actions that were taken, but it was at a point that workers felt we were against the wall, that nobody would listen to us, that we have families. You have no idea the amount of phone calls I get continuously that in D.C. government nobody knows anything.

You can't assure not one person in D.C. government that they're going to have a job, that they are going to be able to pay their rent, that they're going to be able to pay their house note, that they're going to be able to send their kids to school, that they're not going to have to pull their kids out of school.

And on top of that, I think that some of the suggestions that were made by the control board and even sometimes throughout the system, we have people will who will simply not listen. And I believe nobody knows better about how something works better than people who do it themselves. And if you don't want to include them, then we can sit and listen and just see where the mistakes are coming from, even some of the things that the control board offers.

And I think the thing that disturbed us most was we went to a hearing with the control board at Howard University and talked about the many, many problems that we face, and as soon as we finished testifying, they pulled out a document of decisions that they had already made and what they were going to do. I mean, what did it make us feel like?

Mr. DAVIS. I understand.

Mr. HICKS. So we certainly welcome your support, your office support. We welcome the dialog that we will have with them.

We know that, as I said before, that was indeed a tough decision and a tough call for us. And with any decision, there are consequences.

Mr. DAVIS. I understand that. As long as you are ready to live with the consequences, since consequences may be raised.

The only point I want to make is it makes Ms. Norton's job tougher, it makes my job tougher. It makes the job of people who are trying to help the city tougher, because it ends up polarizing.

I understand. I think you have made your point. Let's continue the dialog and move on from here. Hopefully, with this legislation, we can keep people at work doing their job for the city and as the city faces these tough decisions over the next couple of years as they continue to downsize and rightsize. We will make sure you're a part of that equation.

The same goes with the Board of Trade and certainly with the Commission on D.C. Health who have their work cut out for them and a myriad of problems. We want to work with all of you.

We appreciate you being here today, to submit your testimony for the record. It will help us with this legislation.

Thank you very much.

Before I formally adjourn, I have a letter from Mr. Walsh, the subcommittee D.C. chairman for appropriations and Bob Livingston on the legislation.

I would ask that it be put in the record.

Without objection, so ordered.

[The information referred to follows:]

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Honorable Thomas M. Davis
Chairman
Subcommittee on the District of Columbia
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We understand that tomorrow your subcommittee will hold a hearing on H.R. 2661, a bill to permit the District of Columbia to expend its own funds during any portion of a fiscal year for which Congress has not enacted the District's budget.

The Committee on Appropriations is proceeding with a fiscal year 1996 plan of enacting into law 13 separate regular bills as soon as possible. Since enactment of all 13 bills was not achieved by October 1, continuing authority to provide for the temporary operation of the government in the absence of appropriations was needed. As a general practice, a continuing resolution providing spending authority should have restrictive funding rates and should treat all programs the same to provide all parties with the impetus to act to get the regular bill enacted as soon as possible.

A permanent type continuing resolution eliminates the incentive to move a regular bill. For example, this year we are trying to provide an additional $15 million for the D.C. school system to implement major reform measures. The pressure resulting from not having a regular annual appropriations bill is necessary to overcome the status quo, which would be virtually guaranteed by a permanent continuing resolution, even if it were to cover only the period for which there is no regular bill.

While the District of Columbia is unique in that Congress appropriates its locally-generated revenues in addition to funds from the Federal Treasury, it is also unique in that it is the seat of the Federal government established by the Constitution

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through which Congress retained exclusive legislative oversight to ensure the unimpeded functioning of our national government.

Any continuing resolution or other form of legislation that provides automatic or permanent-type funding even if for a short period would in our view abrogate our Constitutionally charged responsibilities. It is our strong feeling that we consider each annual appropriations bill on an individual basis to determine whether a continuing resolution is necessary.

We hope our views are helpful in your deliberations on H.R. 2661.

Sincerely,

James T. Walsh
Chairman
Subcommittee on District
of Columbia Appropriations

Bob Livingston
Chairman

Mr. DAVIS. This meeting is adjourned.

[Whereupon, at 1:15 p.m., the subcommittee was adjourned.]