IMPLEMENTATION OF PUBLIC LAW 104–8, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY ACT OF 1995

HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

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MARCH 19, AND 28, 1996

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IMPLEMENTATION OF PUBLIC LAW 104–8, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY ACT OF 1995

TUESDAY, MARCH 19, 1996

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

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Thomas M. Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis, and Norton.

Ex officio present: Representative Clinger.

Staff present: Ron Hamm, staff director; Howard Denis, counsel; Anne Mack, and Roland Gunn, professional staff members; Ellen Brown, clerk; Cedric Hendricks, and Kimberly Williams, minority professional staff members.

Mr. DAVIS. Good morning. I want to welcome you to our first oversight hearing on the implementation of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995.

When the 104th Congress took office in January 1995, the District of Columbia was in the midst of an unprecedented financial and budget crisis. There were very real concerns that any time the city might run out of cash to meet debt service or payroll.

Although dealing with the financial problems of our Nation's Capital were not at the top of the Republican legislative agenda, the seriousness of the city's crisis was recognized immediately. The House leadership, along with this subcommittee, did not hesitate to move quickly and boldly to save the city.

In this case, we were anxious to save the city, both in the sense of preserving home rule and in the sense of helping it find ways to rescue itself from its fiscal and financial failings.

It would not have been possible to accomplish any of this without the active involvement and cooperation of both Democrats and Republicans, especially the cooperation of the ranking member of this subcommittee, Delegate Eleanor Holmes Norton, who worked tirelessly not only to represent her city and constituents to this body, but who also worked extraordinarily hard to explain the issues and the need for action to the people of Washington.

Now, almost a year after passage and 9 months after the President appointed the members of the Authority, it is time to begin

the important and necessary work of looking into the implementation of Public Law 104–8, who well it is working, whether it needs updating, and whether all involved parties understand the role they have in rescuing and revising our Nation's Capital City.

This hearing is more than just looking at the Control Board itself, because there was much more to the law than just the creation of a board. The District's budget process was revised. Two powerful positions were created inside the city government—chief financial officer and inspector general—to work within the government. A window was opened to the Treasury for dealing with the District's cash and short-term budget problems, since its bond rating had slipped to junk status.

I would have preferred to have had this first oversight hearing last year. Because of the extraordinary Federal and district budget situations, it did not happen. We will deal with this situation by trying to cover major issues of immediate importance today and having another oversight hearing later.

Now that so much time and so many events have passed, we are playing catch-up. Maybe that is not all bad, because the city, the Control Board, the CFO, and IG have all had a chance to get used to each other and go through a round or two of resolving, on their own, the inevitable differences that are a natural and unavoidable part of starting up such a large undertaking as this.

It's is not my intent, nor do I believe that it should be Congress' role to involve itself intimately in the relationship between the Control Board and the city. If we wanted to do that, we could have dispensed with the board altogether and just taken over the city last years.

Our role should be to monitor the situation, make certain that all parties understand and carry out their part of the effort and be prepared to deal with major problems in the underlying statute or its implementation if and when they occur.

On the subject of major problems, I would like to take note of something that was in the media recently and that I think could be misunderstood in a way that skews the way that Public Law 104–8 was intended to work.

The whole thrust of the law is to create one team to rescue and revive Washington, DC. This is one case where it is true that if you are not part of the solution, then you're part of the problem. There should be concept of competition except in the sense that everyone has to be on the Washington, DC, team.

One of the biggest lessons we learned in our hearings last year was that control boards must work closely with the city government and vice versa. People can't be rescued if they don't believe they're in trouble.

But on the other hand, if the rescuer thinks that it has a monopoly on solutions or that only it has the will to make real and permanent changes, then the result will be controversy and an adversarial relationship. In the long run, this would ill serve the city and those who attempt to rescue it.

This is the first time that all the members of the Control Board have testified before Congress. I want to thank these civic-spirited individuals. They receive no financial compensation for the long hours of service they give to this city. Their sole purpose is to assist

the District in its efforts to return to financial stability and managerial efficiency.

I am confident that every action taken by the Authority is taken in light of its mission to assist the District. The Control Board was not established to make policy choices. Policy choices were properly and deliberately left to the local elected officials.

The Control Board was, however, established to make sure that the policy choices made by local officials were made in light of accurate financial data and that the elected officials consider and account for the full costs of their policy decisions before they act.

This means that the Control Board is responsible for insuring that the city is on a path that leads to financial stability and that side excursions or distractions do not cause the district to stray from the right path.

Just because the Control Board does much of its work in private does not absolve them from their responsibility to communicate effectively with the residents of the District of Columbia, the members of the City Council, members of the local executive, and the Congress.

I can't emphasize enough the importance of frequent, effective communications, both public and private, among all the responsible parties involved in this process. Everyone has an important contribution to make. Many of the things that the Control Board must do to carry out its mission needs to be explained fully and clearly to the public, as well as to government officials.

In the absence of clear and cogent explanations, even the best decisions, even the best decisions can have the appearance of being either arbitrary or capricious. I don't think the board has always acted in a way that best communicates what it has found and what it is doing to those it serves.

I don't want this failure to provide a complete explanation of the reasons behind decisions to be misunderstood. Every problem, every hard decision, every much needed innovation provides an opportunity for the Control Board to highlight the fact that the District is moving forward on the path to recovery.

There are those who, perhaps suffering from unrealistically high expectations, are frustrated with the District's progress to date and are either urging the Control Board to do more or believe that it has already failed.

Some want the Control Board to order all sorts of extraordinary and even illegal actions by the District government. Others seem to have an unrealistic expectation of the control moving immediately to secure substantial new resources to continue the District government at its old size and performance levels. Both of these assumptions are wrong.

Before the Control Board can move effectively to help the District solve its problems itself, it must be able to ascertain exactly where the District is and where the problems are. This takes time and resources.

The nature and degree of the District government's problems have required extensive investigation. I hope to hear today that much of that activity has been completed and that real and public evident progress is near to hand.

By the same token, those who thought that the Control Board would act as the cavalry coming over the hill with trunks of cash or Federal assumption of large parts of the government must not have been listening when Congress stated clearly that the District had a spending problem above all else.

Until acknowledgment of that fact and real efforts to control spending in the government itself, further financial assistance would have exacerbated the problems, not solved them. I believe that the Mayor's "Transformation Plan" goes a long way toward setting the groundwork for dealing with some of the larger issues, such as the proper functions of the District government and unfunded pension liability.

Issues have been raised about the board venturing into the policy arena. Others are concerned about the Control Board venturing too deeply into individual personnel matters. Still others have maintained that the Control Board and its staff lack experience in local government and, in essence, don't know what they're doing.

None of these criticisms are completely true, but neither are they completely without merit. They are a completely natural outcome of the new situation all of the parties find themselves in. The most difficult situation for all of us to deal with so far may well be the extraordinary set of circumstances that has existed for the past 6 months.

I look forward with some trepidation to hearing from all of the witnesses how events both within and beyond their control have impacted on the city's ability to move forward. In this regard, consider each of the following points both individually and as a whole.

First, the Control Board wasn't appointed until June 1995, after the Council had finished the fiscal year 1996 budget. The startup of the Board had to take place in the midst of restarting the budget process.

Second, the fiscal year 1996 District budget, which should have been brought to the House floor in June, didn't arrive until August. There were still many questions about the budget and the Control Board's actions on it after it arrived.

Third, despite herculean efforts by the Appropriations Committee, which had to deal with some matters not normally within its purview, the 1996 budget was not passed by October 1, 1995.

Fourth, because the appropriation bill was not passed, only part of the Federal payment was made available to the District in the first continuing resolution, and the not the entire $660 million that the Control Board and the city had been counting on to be available.

Fifth, one of the most important provisions of Public Law 104–8, the chief financial officer, wasn't appointed until October 1995. Therefore, all of the important functions of that office were not present for almost 5 months after the Control Board was appointed.

Sixth, when the Federal Government shut down in November, so did the District.

Seventh, when the Federal Government shut down again in December, the District stayed open at the behest of the congressional leadership, but constantly had to consider whether it should shut down as a matter of law.

Eighth, when it came time to enact a 1996 supplemental budget to better deal with changed circumstances, the District still did not have an approved original 1996 budget from which to work.

Ninth, another key element of Public Law 104–8, the enhanced inspector general did not take office until January 1996. The vital audit, systems review, and investigation work of that office were thus 7 full months delayed from the date of the appointment of the Control Board.

Tenth, even now, as the city and Control Board work on the 1997 budget and the 4-year financial plan, there is no official and legal 1996 budget. This raises severe concerns of how to budget prospectively when you do not know what your current budget really is.

As we sit here today, the District is within about 2 weeks of running out of cash or of once again delaying payments to vendors and Medicaid providers while more than $200 million of the Federal payment is still due.

This incredible situation has to have had a profound and negative impact on the ability of the Control Board and the city government to move forward. The necessity of expending so much of the District's limited resources—especially top-level management—on these constant crises must be taken into account when anyone—the public, Congress, or the press—considers what progress has or has not been made up until now.

What the District of Columbia needs above all else is a period of stability and calm so that plans can be completed and actions can be started. I will do what I can to see that stability prevails, and I anticipate significant progress if that happens.

I would now yield to my colleague, Ms. Norton, the ranking member of the subcommittee, for an opening statement.

Ms. NORTON. Thank you, Mr. Chairman. I apologize for my tardiness, and I thank the chairman for his indulgence. I was in Canada on a 1-day visit of women Members of Congress with women Parliamentarians and have just arrived at Dulles.

I want to welcome today's witnesses and say how pleased I am to receive all of you for your first report to the Congress, and I want to thank Chairman Davis for organizing this hearing. May I thank him, as well, for postponing the hearing as originally scheduled until all concerned could have their own meetings.

The Mayor, the Authority, and the relevant staff have had several meetings, including one with me, and I congratulate all for their efforts in resolving organizational and other issues.

Almost a year ago, Congress rushed to establish the District of Columbia Financial Responsibility and Management Assistance Authority before the spring recess because of fear that the District could have a payless payday or other financial catastrophe while Congress was out on its district work period.

However, the Authority was established not only to enable the District to borrow money, but also to help reform its operations so that the city would again be able to borrow on its own.

The Authority has had to work under the most trying of circumstances. Lacking a financial information system, the District and the Authority have nevertheless had to generate financial information without assurance of its reliability. Moreover, the Au-

thority was established between two budget cycles and thrust into oversight of congressionally mandated cuts in a crisis atmosphere.

The Authority carried out the mandate to assure cuts, but then urged the Congress to cut no further until the city and the Authority could engage in the analysis necessary to restructure and reengineer District functions.

The House ignored the careful and rational recommendation of its own agent and required the Authority to force fresh, immediate cuts on the District. New cuts without a plan set back the possibility that financial recovery could begin this fiscal year.

But Congress went further. It shut down the District for a week and on three separate occasions thereafter forced the city to again prepare for possible shutdowns. Moreover, in an unprecedented delay, Congress has yet to enact a major part of the Federal 6 months into the fiscal year. Thus, in the midst of the District's fiscal Waterloo, Congress has intruded itself as a major factor assuring defeat, at least for the time being.

The new cuts and the delayed Federal payment have kept the Authority in a crisis management mode since its creation. This has delayed the real work of saving money recognized and mandated by the Authority legislation, and that, of course, is the complete overhaul of District operations.

Until the Authority and the city can get to this work in honest and residents can see improvements in city services, a most important mission of the Authority legislation will remain unmet.

The Authority has struggled as well with the complexities and compromises embodied in the legislation, itself. None of the problems in the way the statute is drawn are there by accident, however. They are there by design.

The design was to get the job done while saving as much home rule as possible, pure and simple. The expectation was that the individuals involved would make the statute work. As with everything else in this world, success is driven by people, not by the laws they administer.

District officials have not done their best to make the compromises in the statute work. The District knows what I went through in fighting back proposals by some in the Senate and the House that would have retracted, wholesale, entire blocks of home rule. I am therefore particularly disappointed whenever the District does not do its best to make the compromises the city desired—and that the city got—work well.

At the same time, most observers expected that the District would have trouble adjusting to sharing power it had exercised alone since 1974, when home rule was enacted. The challenge and the charge of the Authority was to help develop procedures and relationships so that the adjustment would be made.

To help ensure that this would happen, I engaged in an exhausting struggle here to ensure that all members of the Authority would be Washingtonians with a healthy respect for home rule that is so highly valued in this democracy-deficient city.

I want to commend the Authority and the city for the efforts they have made, especially recent meetings among themselves that have achieved significant progress. I will place into the record the agree-

ments reached at the meeting held with the parties in my office after all have had an opportunity to look at the memorandum.

Further steps will be needed as well, however. I have listed some of them in the memo I will attached. I want to reiterate that I stand ready whenever called upon to use my good offices to help establish administrative, systemic remedies to problems raised by the statute or otherwise.

Finally, in reviewing the statute in preparation for this hearing, I have concluded that the compromises that save home rule are indeed workable if all work at it. One example is the chief financial officer provision.

The functions and personnel of the financial cluster are all explicitly committed to the CFO, including the offices of the treasurer, controller, Budget, Financial Information Services, and Finance and Revenue. The CFO appoints the treasurer, controller, and director of Financial Information Services, the latter two with the approval of the Mayor.

The Mayor retains the right to appoint the budget director and the director of finance and revenue only because these are cabinet positions, but even here he must get the approval of the Authority for these cabinet appointments.

Great concessions are made to the Authority and to the CFO in the Authority legislation. The CFO must move forward to exercise control over the functions and personnel of the financial cluster as mandated by the statute; the District must do nothing to impede him; and the Authority and the District must help him work out the personal and official relationships. I am pleased to see how all involved are successfully accomplishing this goal now.

I am certain that the CFO issue and others can and will be worked through without intervention by Congress to curtail home rule. I have full confidence in the ability of the Authority and the District to make the Authority legislation as enacted work as enacted.

In any case, as the only Member of Congress from the District, I have no intention whatsoever of presiding over or aiding and abetting the end of hard-won, much beleaguered home rule. I am sure that on reflection none of the parties would want any less. Thank you, Mr. Chairman.

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

I am now pleased to introduce and welcome our first panel of witnesses, which consists of the five Presidentially appointed members of the Financial Responsibility and Management Assistance Authority, better known as the Control Board. This is the first time all five members will be testifying before Congress, an occasion we've eagerly awaited.

The five members are Dr. Andrew F. Brimmer, a former member of the Federal Reserve Board, who serves as the chairman of the Authority; Constance Berry Newman, under secretary of the Smithsonian Institution and former head of the Federal Office of Personnel Management; Dr. Joyce A. Ladner, former president of Howard University; Stephen D. Harlan, vice chairman of the Authority and president of H.G. Smithy Co.; and Edward A. Singletary, former vice president and secretary of Bell Atlantic Corp.

As you've been advised, it's the policy of this committee that all witnesses be sworn before they may testify. I would ask you all to please rise with me and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. Please be seated. The subcommittee will carefully review any written statements that you care to submit, and I ask that any oral testimony be limited to about 10 minutes. I'm going to make the same request of all other witnesses for the practical reason that we have to vacate this hearing room by noon.

As all interested parties know from the notice that went out, this meeting was supposed to start at 8:30 a.m., but was compelled to start later for a variety of last-minute reasons. We, of course, want to have sufficient time after your opening statements for questions. Thank you and all subsequent witnesses for your cooperation.

Before you commence, permit me to note that you are all key players in our ongoing efforts to revive the fiscal condition of the District of Columbia. I fully understand you've been functioning for only about 8 months. It took the District a lot more than 8 months to get into its present morass. It will take more than 8 months for the District to recover.

We're looking to you to not only exercise the leadership role Congress mandated in Public Law 104–8, but to work closely and effectively with the CFO and IG and with the rest of the District government, the DC team. We look forward to hearing from you on a regular and ongoing basis about what you've done, what you're doing, and what you plan to do, and what we can do together.

You are all, in effect, unpaid volunteers serving a 3-year term, which I'm sure must occasionally be viewed by you as 3-year sentences. We've given you a great power to put the District on a glide path to economic solvency and prosperity. I want you all to know how deeply we appreciate your hard work and dedication, our occasional differences to the contrary notwithstanding.

We will now hear from Chairman Brimmer on behalf of the DC Financial Responsibility and Management Assistance Authority.

STATEMENTS OF ANDREW F. BRIMMER, CHAIRMAN, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY; JOYCE A. LADNER, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY; CONSTANCE BERRY NEWMAN, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY; STEPHEN D. HARLAN, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY; AND EDWARD A. SINGLETARY, DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

Mr. BRIMMER. Thank you very much, Mr. Chairman and good morning to the Members. Mr. Chairman, you've already introduced the members of the panel, and they're all here. The members have reviewed my statement, so I am testifying in this statement on behalf of the Board, but individual members are prepared to respond to questions.

I've already asked whether each one would want to make an additional statement. They have all said they would not wish to do so, but they are prepared to respond to questions which you may raise.

The Board's statement, Mr. Chairman, is fairly long, and I would accept your invitation to include all of it in the record and I would simply highlight several features of the statement.

As you know, the Authority was established on April 17, 1995, and the main purpose was to help the city improve its overall financial stability and to help improve services. There were other objectives specified as well, but these stand out.

Mr. Chairman, we believe that we have been making progress under the law. I will cite several examples, but for the most part, we should all accept the fact that we began this effort under very trying conditions. We should also remember that the city's financial condition did not develop overnight, and it will not improve overnight.

Yet we are all prepared to work hard at that improvement, and the efforts I will describe to date demonstrate that we have been dedicating ourselves. We have been working very hard, and we are convinced we will make further progress.

Since its formation last summer, the Authority has worked hard to maintain constructive relations with city officials while at the same time insuring itself sufficient independence to carry out its functions. Sadly, I must report that the District of Columbia remains today, almost a year after the passage of the law, in very serious financial condition.

Without dramatic action in coming weeks, the city's cash position will turn particularly dire. Obtaining the rest of the Federal payment, now tied up in the Appropriations bill, is extremely important to the District. Those funds, already critically needed, are only one part of this solution.

The Authority has concluded after months of study that additional short-term resources are needed to ease the District's immediate financial crisis. The Authority in the near future will work closely with the Mayor, the District Council, the President, and the Congress to identify funding sources to eliminate this crisis.

I should mention at this point, Mr. Chairman, and I know that my colleagues agree with me, that the condition in which the District finds itself is much worse than we anticipated when President Clinton appointed us as members of the Authority. Cash shortages, the size of the deficit, the vendor payment problems, dwindling resources, decaying infrastructure, and hamstrung agencies all seem worse than we originally expected.

And while I believe there is much cause for hope, including the fiscal year 1997 financial plan and budget recently put forward by the Mayor, no one should underestimate our financial plight and the amount of time, effort and cooperation from all who care about this city that will be necessary for us truly to revitalize the District.

We were asked particularly to share with the committee the progress we have made. Now, our fiscal situation did not deteriorate overnight, as already said, and it will take a great deal of ef-

fort to move the city forward, but I would want to repeat what the chairman said earlier.

This is a relatively new institution. The chief financial officer has been in place only 5 months, and the inspector general arrived only in January. The fiscal situation has been complicated by the unexpected delay in passage of the Appropriations bill that was already noted. Only now, with the fiscal year 1997 financial plan and budget will the Authority have an opportunity fully to influence the course of the District's budget formulation.

I want to digress for a moment, Mr. Chairman, to say that in that Appropriations bill there is additional authority, additional powers for us, and we would like very much to have those so we can proceed and carry out our recommendations.

So, the failure not only holds up the balance of the Federal payment, but it also holds up some instruments of administration which we need, and we have made some recommendations to modify some of those, and we will reiterate those and submit some language for the record on those, Mr. Chairman.

Mr. DAVIS. Without objection, they'll be entered into the record.

Mr. BRIMMER. Thank you very much.

[The information referred to follows:]

The following language was contained in section 153 of Public Law 104-134:

Technical Corrections to Financial Responsibility and Management Assistance Act

Sec. 153. (a) Requiring GSA To Provide Support Services.--Section 103(f) of the District of Columbia Financial Responsibility

~~[[Page 110 STAT. 1321-103]]~~

and Management Assistance Act of 1995 is amended by striking ``may provide" and inserting ``shall promptly provide".

(b) Availability of Certain Federal Benefits for Individuals Who Become Employed by the Authority.--

(1) Former federal employees.--Subsection (e) of section 102 of such Act is amended to read as follows:

``(e) Preservation of Retirement and Certain Other Rights of Federal Employees Who Become Employed by the Authority.--

``(1) In general.--Any Federal employee who becomes employed by the Authority--

``(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

``(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

``(2) Effect of an election.--An election made by an individual under the provisions of paragraph (1)(A)--

``(A) shall qualify such individual for the treatment described in such provisions for purposes of--

``(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

``(ii) chapter 87 of such title (relating to life insurance); and

``(iii) chapter 89 of such title (relating to health insurance); and

``(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of

Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

``(3) Conditions for an election to be effective.--An election made by an individual under paragraph (1)(A) shall be ineffective unless--

``(A) it is made before such individual separates from service with the Federal Government; and

``(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

``(4) Contributions.--If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

``(5) Regulations.--Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by--

``(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

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``(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved. and

``(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

(2) Other individuals.--Section 102 of such Act is further amended by adding at the end the following:

``(f) Federal Benefits for Others.--

``(1) In general.--The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either--

``(A) to be deemed a Federal employee for purposes

of the programs referred to in subsection (e)(2)(A) (i)-(iii); or

``(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

``(2) Effect of an election.--An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

``(3) Definition of `corresponding office or agency'.--For purposes of paragraph (1), the term `corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

``(4) Thrift savings plan.--To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting `the Executive Director referred to in section 8474 of title 5, United States Code' for `the Office of Personnel Management'.".

(3) ``Effective date; additional election for former federal employees serving on date of enactment; election for employees appointed during interim period.--

(A) Effective date.--Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)--

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) Additional election for former federal employees serving on date of enactment.--

(i) In general.--Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under

section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) Exception.--An election under this subparagraph may not be made by any individual who--

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) Election for employees appointed during interim period.--

(i) From the federal government.--Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) Other individuals.--The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who--

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during

the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) Exemption From Liability for Claims for Authority Employees.--Section 104 of such Act is amended--

(1) by striking ``the Authority and its members'' and inserting ``the Authority, its members, and its employees''; and

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(2) by striking ``the District of Columbia'' and inserting ``the Authority or its members or employees or the District of Columbia''.

(d) Permitting Review of Emergency Legislation.--Section 203(a)(3) of such Act is amended by striking subparagraph (C).

Mr. DAVIS. Let me just also, if I could, recognize the chairman of our full committee, Bill Clinger, who has just come in. Chairman Clinger, we appreciate your being here with us this morning. Thank you very much.

Go ahead and proceed.

Mr. BRIMMER. Thank you. Now, the headlines are full of bad news about the District. What the media does not as readily relate to the public is the progress made by the Authority and the city itself under act. Seven months ago, this Authority was what you see here today—the volunteer unpaid members. There are five of us.

Today we have a staff of 27 hard-working professionals, including CPA's, lawyers, MBA's, MPA's and economists, all together, overall a group of dedicated people without whom we, the members of the Authority, could not effectively function.

We have worked hard to fulfil the mandates of the law. Section 203 stipulates that we may review contracts into which the Districts proposes to enter. To date, we have reviewed more than 1,000 such contracts, with a cumulative average processing time of about 1 week, and we have approved more than 95 percent of them.

During the month of February, our average contract processing time was 4 days. Our review of contracts has suggested many needed changes in the District's procurement operations. I want to stress that.

In the process of approving contracts, we have noted that there are needed changes in the Districts procurement operations, and we are now working closely with city officials and others to seek improvements likely to save millions of dollars.

Section 203 requires that we review all District legislation. We have examined more than 40 legislative acts and have approved all but three of them. In November, we disapproved the Budget Support Temporary Act and suggested several changes which were subsequently included in a revised Budget Support Act that the Board approved.

Last month, the Authority disapproved the fiscal year 1996 supplemental budget as passed by the Council. We believed that the act's addition of $87 million to the District's deficit would be fiscally irresponsible. The Authority instead sent back to the Council allocations of $125 million in cuts to meet the $4.994 billion budget ceiling imposed by the Congressional Appropriations Conference Committee.

Moreover, in many of the acts deemed approved by the Authority, our staff has worked closely with the staff of the council to approve legislative language and fiscal impact statements. But again, we have worked substantially on the range of issues that have been put before us.

The Authority has done much more, of course. Since our creation, we have sought extensive outreach in the community. Members of the Authority and its executive director and general counsel have participated in nearly 200 discussions, panels, and other forums in every ward of the city.

We have had two hearings at which the public at large was invited to testify, and we have held 18 public meetings and public hearings in the conduct of our business. I could go on to describe

additional activities which we have engaged in, and the kind of effort we have made, to enhance our relations with the city.

Our extensive contacts with labor organizations and the business community have borne fruit, as well. For instance, we have received many excellent suggestions from labor groups about ways to cut costs and improve services.

With regard to corporate citizens, as an example of the kind of cooperation I have in mind, the Authority and Ford Motor Co. announced last month an arrangement in which all of the District's Ford emergency police, fire, and public works vehicles will be repaired and maintained through a $750,000 line of credit provided by Ford and guaranteed by the Authority.

The District's vehicles will receive expedited attention at Ford repair shops, and the District's vehicle technicians will receive training at Ford's regional repair center at no cost to the District. The Authority applauds corporate citizenship, and we encourage others to seek similar creative ways to help their city in this time of need.

Mr. Chairman, I would like to turn now to the Authority's relationship with the District government. We are keenly aware that the Authority is not the elected government of the District of Columbia. In being sensitive to our appointed role, we have in the last 7 months sought as much as possible to work through, and in collaboration with, the city's elected executive and legislative representatives.

As mentioned earlier in my testimony, Authority members and staff, in the conduct of our work, have frequently met and regularly consulted with the Mayor, the city administrator, the chief financial officer, inspector general, the Board of Education, city agencies, the chairman and members of the City Council, and the staff of all of the aforementioned offices.

We have generally had constructive and mutually beneficial relations, and the result has generally been more positive and effective public policies and procedures. Two weeks ago, the Authority held a retreat with the Mayor and his senior officials. Last week, we had a retreat with members of the Council and their senior staff.

As one might expect in any democratic tradition such as ours that also includes a control board, there have at times been respectful disagreements between parties. Yet in all candor, these disagreements typically arise from honest differences about roles and responsibilities or from differing interpretations.

Nonetheless, the Congress, through Public Law 104–8, gave the Authority certain powers to ensure that responsible financial governance of the District was carried out. The Authority has used those powers, and we will continue to use them, when we believe that other methods are ineffective or exhausting.

As mentioned, the Authority has disapproved certain legislation passed by the District. The Authority has also issued orders to obtain information or compel actions that it believed would not be forthcoming otherwise.

We have issued detailed instructions to the chief financial officer regarding the appropriate allotment of fiscal year 1996 funds as mandated by the Congress. The apportionment of $129 million in cuts has been given as guidance to the chief financial officer, who is currently providing detailed instructions to city agencies. If nec-

essary, this guidance will be followed by an order to ensure that agencies keep within the mandated limits.

At this point, Mr. Chairman, I would like to turn aside for a moment and mention another area of concern to us, and I would then be prepared to answer whatever questions you would like.

We have concluded, after much discussion, that the chief financial officer needs greater flexibility in order to carry out his responsibilities. We concluded earlier this year that legislation was required to realign and make clear the line of authority and the responsibilities of this CFO. We have had a number of discussions in that regard.

We have concluded, however, that we would not at this moment ask the Congress to enact that legislation immediately. We did so because it is my understanding that the Mayor has agreed to delegate to the chief financial officer the authorities which the CFO feels he needs.

I say I understand that that has happened, because, unfortunately, that discussion took place when no member of the Control Board was present, but we believe that if the Mayor delegates that authority to the CFO, and if he does it quickly, that would provide the flexibility that the CFO needs. On the other hand, if that is not done—if it is not done quickly, Mr. Chairman—we will be right back here asking that the law be changed.

Thank you very much, Mr. Chairman. I asked my colleagues, as we got underway, whether they wanted to make an additional statement. They said no, and so all of us are now prepared to respond to your questions. Thank you very much.

[The prepared statement of Mr. Brimmer follows:]

Mr. Chairman and Distinguished Members of the Subcommittee:

My name is Andrew Brimmer, and I am Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority. I am accompanied here today by my colleagues on the Authority, including Mr. Stephen Harlan, the vice chairman; Dr. Joyce Ladner; Ms. Constance Newman; and Mr. Edward Singletary. Thank you for the opportunity to appear before the Subcommittee today.

Introduction

As you know, the Authority was established on April 17, 1995, with the passage of Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act, legislation crafted in large part by this Subcommittee. At the time of the Act's passage, the Congress set forth nine findings concerning the serious financial condition of the District of Columbia and a series of eight purposes by which the Act -- and this Authority -- would, among other things, return the District to fiscal solvency and improve the delivery of public services.

Mr. Chairman, we believe that Public Law 104-8, its findings and purposes, were at the time of passage -- and today remain -- important and necessary medicine for restoring and improving the health of the Nation's Capital. Public Law 104-8 has already proven enormously beneficial to guiding this City's financial future: the Act has helped create short-term corrective actions to engage immediate problems, and it has helped provide the structure for solving the difficult, long-term issues that confront the District. This Act created a powerful Board, as well as strong Offices of the Inspector General and the Chief Financial Officer, to help the District achieve, and where necessary, enforce responsible governance. Since its formation last summer, the Authority has worked hard to maintain constructive relations with City officials while, at the same time, ensuring itself sufficient independence to carry out its own role.

Sadly, I must report the District of Columbia remains today, almost a year after the passage of Public Law 104-8, in very serious financial condition. Without dramatic action in the coming weeks, the City's cash situation will turn dire. Obtaining the rest of the Federal Payment, now tied up in the Appropriations bill, is extremely important to the District. Those

funds, although critically necessary, are only one part of the solution. The Authority has concluded after months of study that additional short-term resources are needed to ease the District's immediate financial crisis. The Authority in the near future will work closely with the Mayor, the District Council, the President and the Congress to identify funding sources to eliminate this crisis.

I should mention at this point, Mr. Chairman, and I know that my colleagues agree with me, that the condition in which the District finds itself today is much worse than any of us anticipated when President Clinton appointed us as Members of the Authority. Cash shortages, the size of the deficit, the vendor payment problems, dwindling revenues, decaying infrastructure and hamstrung agencies all seem worse than we originally expected. And, while we believe there is much cause for hope, including the Fiscal Year 1997 Financial Plan and Budget recently put forward by the Mayor, no one should under estimate our financial plight and the amount of time, effort and cooperation -- from all who care about this City -- that will be necessary for us truly to revitalize the District.

The Authority's Progress

Our fiscal situation did not deteriorate overnight. Nor will it be repaired in a matter of months. Although there is no substitute in this crisis environment for deliberate, resolute action -- action that the Authority is increasingly taking -- a measure of patience also is required. This Board is relatively new. The Chief Financial Officer has been in place just five months, and the Inspector General arrived only in January. The fiscal situation has been complicated by the unexpected delay in passage of an appropriations bill. Only now -- with the Fiscal Year 1997 Financial Plan and Budget -- will the Authority have an opportunity fully to influence the course of the District's budget formulation. Thus, I would say to those who seek a more radical approach to our situation, to those who suggest replacing the Authority with a Receiver, that such action is premature and it would be counterproductive. Give Public Law 104-8 the chance to work as Congress and the President intended -- and as the District's citizens deserve.

The headlines are full of bad news about the District. What the media does not as readily relate to the public is the progress made by the Authority and the City itself under the Act. Seven months ago, this Authority was what

you see here today -- the volunteer, unpaid, Members. Today we have a staff of 27 hardworking professionals, including CPAs, lawyers, MBAs, MPAs, and economists -- overall a group of dedicated people without whom we, the Members, could not effectively function.

We have worked hard to fulfill the requirements and mandates of Public Law 104-8. Section 203 stipulates that we may review contracts into which the District proposes to enter. To date, we have reviewed more than 1,000 contracts, with a cumulative average processing time of about one week, and we have approved more than 95 per cent of them. During the month of February, our average contract processing time was four days. Our review of contracts has suggested many needed changes in the District's procurement operations, and we are now working closely with City officials and others to seek improvements likely to save millions of dollars.

Section 203 requires that we review all District Council legislation. We have examined more than 40 legislative acts, and have approved all but three of them. In November, we disapproved the Budget Support Temporary Act and suggested several changes which were subsequently included in a

revised Budget Support Act that the Board approved. These changes saved the District some $3 million to $5 million. Last month, the Authority disapproved the Fiscal Year 1996 Supplemental Budget as passed by the Council. We believed that the Act's addition of $87 million to the District's deficit would be fiscally irresponsible. The Authority -- instead -- sent back to the Council allocations of $129 million in cuts to meet the $4.994 billion budget ceiling imposed by the Congressional Appropriations Conference Committee. Moreover, in many of the Acts deemed approved by the Authority, our staff has worked closely with staff of the Council to improve legislative language and fiscal impact statements. The Authority also has approved several borrowings by the District, five revenue bond issues, including bonds to support the new sports arena. We will review labor contracts as required upon their finalization. and submission to us.

The Authority has done much more, of course. Since our creation, we have sought extensive outreach in the community. Members of the Authority, and its Executive Director and General Counsel, have participated in nearly 200 discussions, panels, and other forums in every ward of this City. We have held two hearings at which the public at large was invited to testify, and

we have held 18 public meetings and public hearings in the conduct of our business.

Members and our staff have been involved in, and profited from, countless meetings with City agencies and dozens of other organizations that play a role in the District -- especially as regards budget formulation. There probably is not a subject related to the District's operations that our staff has not examined -- from revenue generation to economic development, from education to Medicaid, from public safety to public works. Our contacts with labor organizations and the business community have borne fruit as well: for instance, we have received many excellent suggestions from labor groups about ways to cut costs and improve services. With regard to corporate citizens, the Authority and Ford Motor Company last month announced an arrangement in which all of the District's Ford emergency police, fire and public works vehicles will be repaired and maintained through a $750,000 line of credit provided by Ford and guaranteed by the Authority. The District's vehicles will receive expedited attention at Ford repair shops, and the District's vehicle technicians will receive training at Ford's regional repair center at no cost to the District. The Authority applauds Ford's corporate

citizenship, and we encourage others to seek similar creative ways to help their city in this time of need.

Relations With The City Government

Mr. Chairman, I would like to turn now to the Authority's relationship with the District Government. We are keenly aware that the Authority is not the elected government of the District of Columbia. In being sensitive to our appointed role, we have in the last seven months sought as much as possible to work through, and in collaboration with, the City's elected Executive and Legislative representatives. As mentioned earlier in my testimony, Authority Members and staff in the conduct of our work have frequently met and regularly consulted with the Mayor, the City Administrator, the Chief Financial Officer, the Inspector General, the Board of Education, City agencies, the Chairman and Members of the City Council, and the staff of all the aforementioned offices. We have generally had constructive and mutually beneficial relationships, and the result has almost always been more positive and effective public policies and procedures. Two weeks ago, the Authority held a retreat with the Mayor and his senior officials. Last weekend, we held a retreat with Members of the Council and their senior staff.

As one might expect in any democratic tradition such as ours that also includes a control board, there have at times been respectful disagreements between parties. Yet, in all candor, these disagreements typically arise from honest differences about roles and responsibilities or from differing interpretations. In my opinion, the District's elected officials are motivated by the same bedrock values as are Authority Members -- that the District's welfare is what matters most.

Nonetheless, the Congress through Public Law 104-8 gave the Authority certain powers to ensure that responsible financial governance of the District was carried out. The Authority has used these powers, and we will continue to use them when we believe other methods are ineffective or exhausted. As mentioned, the Authority has disapproved certain legislative Acts passed by the District Council. The Authority has also issued orders to obtain information or compel actions that it believed would not be forthcoming otherwise. We have issued detailed instructions to the Chief Financial Officer regarding the appropriate allotment of Fiscal Year 1996 funds as mandated by Congress. The apportionment of $129 million in cuts

has been given as guidance to the Chief Financial Officer, who is currently providing detailed instructions to City agencies. If necessary, this guidance will be followed by an order to ensure that agencies keep within the mandated spending limits.

In sum, Mr. Chairman, the Authority will not hesitate to use judiciously the powers granted to it by the Congress to ensure compliance with Public Law 104-8.

The Authority's Accomplishments

Earlier I mentioned the progress the Authority has made since its establishment last summer. I would now like to mention some of our accomplishments which, like our progress, tend to get lost in the daily procession of somber financial news. In my opinion, there have been both qualitative and quantitative improvements that would not have happened in the Authority's absence. Qualitative improvements include efforts to streamline the District's cumbersome contracting system; a promising first draft of the Fiscal Year 1997 Financial Plan; a rational approach to vendor payments worked out with the Chief Financial Officer to ensure equitable

treatment of vendors; and a more disciplined and performance-driven approach to planning and budgeting.

Regarding quantitative measures, the Authority believes that it has helped the District either save or avoid spending millions of dollars since our creation seven months ago. I will mention just a few examples. Disapproval of the Budget Support Temporary Act helped avoid some $3 million to $5 million through the elimination of severance pay preferences for residents and veterans. We have urged the District to address the excess number of individuals being provided with health benefits: the District is currently paying for the health benefits of more than 14,000 employees, when City records indicate that just under 12,000 of those individuals are actually employed; the difference could amount to more than $10 million in savings annually. The rejection of the unnecessary 800 Mhz radio frequency purchase orders avoided expenditures of nearly $1 million. The demise of a proposed Arena-related lease, based on the Authority's critique of the transactions, prevented a potential loss of millions of dollars. Our work on the downtown Sports Arena, among other things, substantially lowered the interest rate at which the District could borrow funds.

Mr. Chairman, there are many other examples of the positive financial impact that this Authority, through Public Law 104-8, has had on the District, and we look forward to providing you a full record of them in our annual report later this year.

Changes To The Act

I mentioned earlier in my testimony that Public Law 104-8 has already proven beneficial to the District and its citizens. The Act is in most instances quite clear about what Congress intends us to achieve. Even though there remains much to be accomplished, as my comments above stress, there already has been considerable progress and constructive change. Additional changes and improvements will be forthcoming in the weeks and months ahead, of course, but the pace and significance of progress by the Authority and the District could be improved by certain changes to Public Law 104-8.

With the Chairman's indulgence, I will briefly mention a few changes to the Act that would clarify certain points or that could remedy unintended omissions in the drafting of the original bill. We may also consider other

technical changes that we may suggest to this Committee in the future. My colleagues and I would be pleased to follow up this discussion in the coming weeks with a more detailed submission to the Subcommittee regarding our suggestions for technical changes and enhancements to the Act.

As you know, there are several technical amendments to Public Law 104-8 that are incorporated in the pending District appropriations bill. These include power for the Authority to review District Council emergency legislation, a legal immunity provision, and certain basic health and pension benefits for our employees. We urge the adoption of these non-controversial amendments as soon as possible, whether as part of the appropriations bill, or in whatever legislative vehicle is most appropriate.

The Authority also believes that the powers and independence of the District's Chief Financial Officer should be commensurate with the powers and independence of the District's Inspector General. I recently wrote both to you, Mr. Chairman, and to Congresswoman Norton, regarding the authority needed for the Chief Financial Officer over financial personnel issues. After much consideration of the balance between the Mayor's right to

control personnel in his administration, and the intent of the Act to achieve certain aims through the Office of the Chief Financial Officer, the Authority has concluded that the CFO must be provided flexibility in managing personnel. The Mayor has indicated that he will delegate the necessary authority to the CFO. We have every reason to believe that he will follow through on his commitment. If that is not done, we would recommend that the power of the CFO's office be enhanced by statute to include the appropriate responsibility for financial personnel issues.

Mr. Chairman, we believe these changes to Public Law 104-8 will improve the legislation's effectiveness and ensure that the intent of this historic Act is fulfilled.

The Authority's Strategic Plan and Next Steps

This City has a proud past and a promising future. The Authority, working in collaboration with the Mayor and the Council, hopes to make the District of Columbia an example for our country -- a place where people of all backgrounds and races can live, work and visit and walk the streets in safety; where the poor are not forgotten nor the middle class burdened; where the

pride of our physical attributes and the growth of our economy encourage investment and improvement; and where everyone benefits from a thriving City.

Authority Members and I believe in this vision, and we are working hard to make it happen. The success of our vision requires both discipline and innovation on the part of everyone who cares about the District's future. We must look beyond the old ways of doing things: we need to study effective public and private sector approaches where they have solved problems similar to ours. And we must convince everyone now watching us that the District can live within its means.

In recent weeks, the Authority has spent considerable time reviewing the District's Fiscal year 1996 budget, a process that culminated with a unanimous vote to allocate $129 million in spending cuts to this year's budget. This was not an easy decision for Authority Members to make -- in protecting public health and safety and the City's disadvantaged, we recognized that other areas of the District Government would face real cuts. And those real cuts may mean the loss of jobs and services for real people.

Although news accounts have principally focused on our recommendations for spending cuts, this clearly is not the sum of our work. The Authority is addressing long-term management issues and studying options for increasing District revenues. Authority Members recently held a strategic planning retreat, at which we decided to focus our attention on long-term issues of importance to the District's future. Individual Authority Members have agreed to take the lead on Project Teams that will study the issues and make recommendations to the full Board for action in the near future. Some of these specific areas and their team leaders include the following: Mr. Singletary is reviewing human services and Medicaid; Dr. Ladner is studying the public schools; I am leading the team on the University of the District of Columbia and higher education, and I am also looking at revenue options; Mr. Harlan is examining public works and public safety; and Ms. Newman, because of her years of experience at the Federal level, is looking at the organization and effectiveness of the District's personnel system.

Other specific issues are also being reviewed by the Authority. We are involved in the ultimate disposition of the Blue Plains Wastewater Treatment Plant, and we are monitoring the decision which will determine the future of the Lorton Correctional facility. We are searching for new and innovative ways to encourage economic development in the District, to broaden the area's tax base, to persuade residents to remain in the City -- and to encourage migrants to return. We will continue efforts already underway to streamline the District government's structure, and to improve public services provided to citizens and visitors.

Mr. Chairman, the issues I have discussed in my testimony will not all be resolved overnight. We appreciate the trust that you have put in the Authority to help revitalize the Nation's Capital and to help the City regain its place as a premier location to work and live and visit. We look forward to reporting again soon about the state of our City, and we hope that our next report will provide a brighter picture of the District's prospects. This concludes my statement. My colleagues and I would be happy to answer any questions that you or other members of the Subcommittee might have. Thank you.

Mr. DAVIS. Well, let me just say, I'm going to have questions for each of your colleagues, but they obviously are the veterans of many hearings when they said that. I can appreciate that. Let me just ask a few questions if I could.

Dr. Brimmer, my staff has been contacted by more than one city agency about the allocations that the Authority has made for the rest of 1996. Particularly in light of yesterday's activities at UDC, could you address the question of whether the Authority has ordered any spending reductions that would close city agencies or institutions for months at a time or would require 40, 60, or 80 furlough days by the end of the year.

Mr. BRIMMER. No, Mr. Chairman, we have not. There has been, as you indicated, a good deal of confusion over this. Let me say quickly what happened. The ceiling of $4.994 billion was set by the Congress. In addition, we were instructed to allocate the difference between the original budget proposal—$5.123 billion—and $4.994 billion, roughly $129 million.

We proceeded to make those allocations after discussion with and receiving recommendations from the Mayor and the council. We issued guidance to the CFO to assure that the agencies lived within the lower budget ceilings which we determined to be appropriate.

At the same time, in carrying out those instructions, the CFO observed that there are some agencies—some agencies—not many, but some agencies are already spending at rates substantially in excess of the ceiling.

Some agencies—and UDC in particular, since you've mentioned that one, exceeded its budget a year ago, and has not taken any actions to indicate that it was responding to the guidance that had been given, and by all indications, it looked as though—and the CFO was convinced—that UDC, along with some other agencies, would exceed their ceiling, and so additional guidance was given.

We said to the CFO that all agencies should be allowed to spend up to 100 percent of their allocation at a rate that would keep them within that, except in those cases where an agency indicated or at least demonstrated through its actions or lack of actions that it was likely to exceed its ceiling. Then the CFO should be able to impose special restraints to assure that they would get under an remain under the ceiling.

That is the background of the issue you just raised, and apparently—and I say apparently because I don't know—apparently there was some interpretation of that guidance at UDC, suggesting that their allotment was being cut. That was not the case, Mr. Chairman. We know of no case where an agency is operating on the assumption that they are being cut below their actual ceiling.

Mr. DAVIS. And in point of fact, if someone felt their agency had been ordered to cut too far, they would be allowed to make their case to the Authority, and they should be prepared to do that. Isn't that the appropriate mechanism?

Mr. BRIMMER. Precisely, and they have been told that there would be a first stop—and I want to stress this—the first stop is the CFO. We would not encourage any agency to come to the Control Board to lobby. They should make their case with the CFO, and, of course, if they feel that they are not getting a fair hearing, of course they're free to come to us. But the first stop is the CFO.

Mr. DAVIS. Sure. Let me just ask. You talked about the $4.994 billion ceiling. That's technically not in effect, is it, until Congress acts on the budget? Am I right on that?

Mr. BRIMMER. That is correct, Mr. Chairman.

Mr. DAVIS. Congress' failure to act, basically, means we're not able to carry out the mandate that Members would like. Isn't that the reality?

Mr. BRIMMER. That is right, and that is a matter with which we struggle a great deal. We did receive a mandate to do the cut. That's in the law.

Mr. DAVIS. Right.

Mr. BRIMMER. I also sought out and got counsel from the chairs of the Appropriations subcommittees, and I have a letter signed jointly by the chairs of those subcommittees of Appropriations for the District, saying that they were highly confident that, when the legislation was finally adopted, it would contain the $4.994 billion.

Mr. DAVIS. I think it will. This is really more to my colleagues than to all of you, but the longer we put off the budget, by these kinds of limitations that Members of Congress want to impose——

Mr. BRIMMER. I agree with that.

Mr. DAVIS. We end up, really, at cross purposes to what we're trying to do.

I've got more questions, but I want to just go through protocol and acknowledge the chairman of our full committee, the Honorable Bill Clinger, and ask if he would like to ask any questions at this time.

Mr. CLINGER. Thank you very much, Mr. Chairman. I'm delighted that you're holding this hearing. I think it's important that we have an opportunity to bring before us all of the players in this ongoing saga.

Dr. Brimmer, we're delighted to have you and the members of the Authority here. I think it's good that you're here to give us a report. One of the things I wanted to ask you, Dr. Brimmer, was you mentioned the need, you felt, to provide the CFO with more flexibility.

You talked about the understanding of an arrangement that the Mayor had agreed to that. In what way did you feel that the CFO was limited or why was there a need? What do you really envisage as a need for the CFO in terms of more flexibility?

Mr. BRIMMER. Yes, and the CFO is here, and he will appear, and I would hope that he would be able to answer that more fully, but the CFO said that he needed and tried to get flexibility in making appointments.

One concrete example, he felt he needed to make a change. He went in and looked at the establishment that was already there, personnel, and concluded that, in one particular slot vital to him, he needed to make a change. That was resisted initially.

He also said that he needed to realign reporting arrangements, and there was reluctance to do that. In fact, I believe that the order which would achieve that has been on the chief executive's desk for quite some time and still has not been signed. At least if it has been signed, I have not been told. Things like this not simply are conceptual matters, but day-to-day practical ways of getting the job done.

Mr. CLINGER. But it's your understanding that the Mayor has agreed to provide that kind of flexibility or would defer to the chief financial officer in those areas?

Mr. BRIMMER. Yes, sir, that is my understanding.

Mr. CLINGER. Well, we'll have a chance to confirm that, I guess, a little later this morning.

Mr. BRIMMER. Yes, sir.

Mr. CLINGER. Good. Thank you very much, Mr. Chairman.

Mr. DAVIS. Mr. Chairman, thank you very much.

Let me ask, Dr. Brimmer, how would you characterize your relations with the city government, both the executive and the Council, in the time you've been in operation? Are relations improving? Do we need to do more in this area?

We've talked about some legislative clarifications that may or may not have to occur, depending on some things, but I just wonder if you could give us an overall characterization. You knew I was going to ask this. [Laughter.]

Mr. BRIMMER. Yes, I did, and I thought about what I would say and how I would say it.

Mr. DAVIS. I'm going to ask the Mayor the same thing.

Mr. BRIMMER. And I hope you would share his thoughts.

Mr. DAVIS. Please.

Mr. BRIMMER. I would ask my colleagues, if you would permit me to allot a minute, or part of my time so that they could share that.

Mr. DAVIS. Sure.

Mr. BRIMMER. This is a matter of great concern to me. We have spent a lot of time among ourselves talking about it. I would say our relations with the Mayor have been episodic. They have been, from time to time, very good; other times, not so good, that they are basically questions of communications and interpretations of our authority and what we can do and should do.

In general, the Mayor has been supportive of our activities, but as illustrated by the divergence of views about what should be the role of the CFO, we have had differences. I thought our relations were improving substantially in the last few weeks.

We had a weekend retreat—just Board members and two of our senior staff and the Mayor and his senior staff. We spent the whole day working together, covered a lot of ground, had a good exchange, a constructive exchange of views, and I thought we were now witnessing a modification and an improvement.

And then, unfortunately, I must say—and this is my own concern—I was troubled to see the Mayor last night at the demonstration essentially putting much of the blame for the financial restraints on the Board and not putting them in perspective. So that I did not find comfortable, but, as I said, our relations are episodic. But I think, on balance—and I hope—that they're improving. I would ask my colleagues whether they had any views on that.

Mr. DAVIS. Dr. Brimmer, just let me say one thing. The fact that they're going to be pointing the finger at the Board, that's why you're there. That's why it has worked in every city. It's called politics.

Mr. BRIMMER. Yes.

Mr. DAVIS. And in every other city, when there have been uncomfortable cuts, the political leaders, rather than stepping up to the

plate, many times have just wanted to point the finger somewhere else. So I would just say get used to it. I don't think this will be the last time.

Mr. BRIMMER. Right.

Mr. DAVIS. You've got a 3-year term. [Laughter.]

Mr. BRIMMER. Thank you. Well, I'll ask my colleagues if they want to share in this comment.

Mr. DAVIS. I might add, a 3-year unpaid term.

Mr. HARLAN. If I may, I would like to comment on the cooperation. I believe that it has improved a lot, particularly since February 16th when the Mayor unveiled the 1997 financial plan and budget. To me that was quite a shift in direction and a very positive shift.

I think that, at least as far as I'm concerned and, I believe, the Board, that they recognize that shift and look forward to working a constructive fashion, in developing vision and seeing that our common goals are, in fact, well understood, and we're going in the same direction. So I would like to speak on behalf of improved cooperation and in a substantive way.

Ms. LADNER. I would like to speak also, because I think that, in the beginning, up until perhaps the early part of this year, there was a lot of conflict between the Board and the Mayor and his staff. I believe, however, that once all of us came to understand that none of us could succeed until we began better cooperation and to really put forth an image to the city residents that we were working together in their behalf that we began to see a lot of change.

So I think that things have improved tremendously. That's not to say that politics won't continue to enter in here and there, but that goes with the territory.

Ms. NEWMAN. I guess I'm a cynic, or maybe a realist. My expectations were, at the outset, that no one gives up power willingly and that we were going to have some struggles at the outset about where the line was to be drawn, and that was expected.

I think that where we need to do some more work, and I think our retreat started that process, is in communication—communication, straight talk about what are the issues and what are the roles and responsibilities, and I do believe that that has started.

We have to respect what is the responsibility of an elected official, but the elected official has to also respect the responsibility of the Control Board, and we're not going to do it unless we work together, and I'm much more optimistic now than I was, say, a month ago.

Mr. DAVIS. Thank you very much.

Mr. SINGLETARY. I, too, believe that there has been significant improvement, if you can step back and forget the latest episodes that you're dealing with. The last month, I think, has been very good, despite the most recent things we've had to deal with, and I think that it will get better over time.

Mr. DAVIS. Thank you very much. I have a number of questions I will submit to you that you can answer in writing, because there are 40 questions that I cannot get through all today. I do want to ask a more parochial question from a Virginia perspective, and that

concerns public safety and corrections in the District. What are your plans and actions in this?

I know that Senator Hatch has proposed an anti-crime grant of $20 million to the city. Representative Heineman, over on the House side, is actually looking to double that. We know that the money is badly needed. In addition to the additional funding that has been provided by the Authority, how do you feel about that, and what are the plans you've made for public safety in your mark-ups of the budget?

Mr. BRIMMER. Thank you, Mr. Chairman. A month or so ago, we agreed among ourselves that each Board member would take the lead in the examination and assessment of various segments of the city government and of the budget. With respect to public safety, our vice chairman, Steve Harlan, took the lead on that, and he has spent far more time than the rest of us. We've all spent time on it, but he has spent far more time than the rest of us on public safety.

His recommendations are the ones that are embodied substantially in our recommendations vis-a-vis the planning budget, which we will be sending to the Mayor in the next couple of days. So I'm going to ask Mr. Harlan to respond to that.

Mr. DAVIS. That would be great. Mr. Harlan.

Mr. HARLAN. Public safety is of great concern to all of the citizens of the District, as well as the region, as you point out. We believe that when you look at the crime statistics, they're up significantly in 1995 and the first part of 1996 over 1994. It's of great concern.

The police department has had to do with far too little in the way of nonpersonal service spending, so we would encourage any assistance from Senator Hatch or from any Federal Government forum to help the police chief in getting on top of, getting the equipment that he needs to run that operation.

We have come up with recommendations. We're suggesting that the police budget be increased over what the Mayor's 1997 financial plan and budget mark will be in this round, and it's an area of concern that needs attention. We believe that the police chief is probably doing a good job, and we ought to give him the resources to do it and get out of his way and let him do it.

Mr. DAVIS. What about the pay for the men?

Mr. HARLAN. I'm sorry?

Mr. DAVIS. The pay for the men on the street.

Mr. HARLAN. Yes. The officers took a 4.2 percent reduction. They're the lowest paid officers in the region. The officers are scheduled to have that pay reinstated October 1, as well as the premium pay on overtime October 1. We believe that that should, in fact, take place.

We're also recommending that a system of bonuses be explored to encourage police officers to do more and recognize when those successes are done. One of the things, just generally speaking, on the budget is we're trying to get to measuring outcomes as well as just resource inputs. That's throughout the budget, and that, I think, is an important shift in the way this is being approached, and that's true in police, as well.

In corrections, specifically Lorton, it's a disaster. Corrections has been underfunded for the last 25 years, every year. They have overspent their budgets because they have had to. They have nine court orders. The courts are demanding greater spending.

These are largely unbudgeted spendings, even though they're known spendings within the budget. The Mayor, in his 1997 financial plan and budget mark, indicated $18.8 million worth of unbudgeted but known required spending, so we're almost $20 million underwater at the beginning there.

In addition to that, there are other unbudgeted items that could approach $50 million on corrections. Lorton is in desperate need of long-term restrategizing—Lorton—and we need Federal help here.

Mr. DAVIS. Yes.

Mr. HARLAN. There have been big problems of getting vendor payments, food to Lorton prisoners. There's a constitutional right, as you well know, in dealing with prisoners, the wards of the State. That has to be taken care of. All in all, this is an area of extreme concern for this Control Board, and we're looking at it that way.

Mr. DAVIS. I understand, too, there are six full-time FBI agents.

Mr. HARLAN. I'm sorry?

Mr. DAVIS. Six full-time FBI agents assigned just to investigate crimes committed at the Lorton complex, so it's costing Federal resources that could be better used if we could find a better way to carry out this responsibility.

Mr. HARLAN. Lorton is poorly designed. You have high-risk prisoners living dormitory-style with very inadequate security. There are somewhere between 300 and 400 security officers under court-mandated levels. It's a disaster waiting to happen.

Mr. DAVIS. All right. Thank you very much. Let me just ask one other question, then I'm going to ask a couple of questions to each of you. The Mayor's transformation plan—I think you spoke about it as we were looking through this. My first cut at that is that this is a remarkable turnaround from the rhetoric we've been hearing earlier.

This is a plan that you are scrubbing, and we are starting to scrub up here, in terms of what it means, but this is really a good solid plan and a very good start for the city, and we ought to be talking a little bit more about that as a starting place of where to go. Really, the Mayor deserves some accolades on that. That was my take. Do I understand the same thing as the Control Board?

Mr. BRIMMER. Yes, Mr. Chairman, we share that view. We have gone through a detailed evaluation of the overall plan and the transformation component of it, as well, and we will have in our report to the Mayor praise for that effort. We will have some questions, but these will go more toward the question of feasibility and the possibility of implementation.

But it is a good plan, a remarkable plan, and it does represent the kind of product that can be turned out when there is constructive, dedicated commitment to it.

Mr. DAVIS. Thank you.

Mr. BRIMMER. We think it's a good plan.

Mr. DAVIS. Thank you very much. Let me ask Dr. Ladner. I know you're looking at the DC schools. I just wonder if you would like to say a few words about what you're undertaking, about the state

of schools. I know it could take a long time to turn that around, too, but any thoughts you might want to share with us, at least on a preliminary basis, at this time?

Ms. LADNER. Yes, Mr. Chairman. In fact, we have had numerous discussions with the superintendent and his top staff, as well as School Board members. We will soon, within the next 2 weeks, have a meeting of the full Authority with the full School Board, so our relationship is quite good. We have also had discussions with various interest groups, parents and other supporters of the school system.

The budget reflects a number of issues. We have recommended that several schools be closed, and the system is going forward with that. We also feel very strongly that we need to deal with outcomes, in addition to inputs in the system.

Some performance-based measures need to be undertaken. There has been a disinvestment in the infrastructure of the schools. The schools are in great need of a capital budget, so the capital budget needs to be funded, and a capital plan needs to be developed for those schools that remain open.

There is a very serious question that the school system itself is grappling with, and we will join them in that issue, and that is the need for an evaluation of teacher performance. I don't want to get into all the nuances of that, but there has to be some way in which teachers' performance can be evaluated in terms of outcomes of the students so that some return on the investment can be realized by the citizens of this city.

The management structure needs to be streamlined. I would like to just simply congratulate the superintendent on taking the lead in paring down his central office staff, but that work has to continue. There is not enough money in the budget for nonpersonal services.

About 80 percent or so of that budget is for personal services. Especially when we have done comparisons with area jurisdictions—staff sizes, allocation per pupil, et cetera—what we find is that we are woefully lacking in being able to provide the schools enough money to do simple things like buy chalk and construction materials, paper clips, et cetera.

One final area I should mention is that we are concerned that non-District residents who work in the District are bringing their children to the schools, placing them in the schools, for which the schools are not receiving any compensation or remuneration for tuition.

We will take a very aggressive approach in assisting the school system as they have already begun the process of identifying who those people are, because the citizens of this city should not be subsidizing the education of nonresidents.

Mr. DAVIS. It's my understanding of the numbers that it's about $9,000 a student that the city is spending. Do you remember what that is offhand?

Ms. LADNER. Not quite. It's $7,000 and change.

Mr. DAVIS. I've heard different numbers on that. Maybe you can get back and deal with that.

Ms. LADNER. We will put that in the record. It will also be in our report.

[The information referred to follows:]

In the March 21, 1996 Report on the Mayor's District of Columbia FY 1997 Budget and Multiyear Plan the Authority reported that the most recent available data, for the 1995–96 school year, per pupil spending at the District of Columbia Public School System was $7,312. This calculation is based on an enrollment of 79,802, and the Authority approved budget of $583.5 million for fiscal year 1996.

Mr. DAVIS. That would be great. Well, we appreciate what you're doing. Thank you.

Let me ask, Ms. Newman. I know you did a number of things at OPM. What kind of issues are you going to be exploring as you turn your attention to the city?

Ms. NEWMAN. Let me start out by saying I think that we all will be successful in working with the city if we start out by a more positive discussion and attitude about the people who work for the city. It is very hard for people to work in an environment where they are being blasted day in and day out for things over which they do not have control.

Mr. DAVIS. You faced that with the Federal employees. It's the same thing.

Ms. NEWMAN. I know, and that's why I'm making this comment, because I faced the same thing in a previous position. So part of it is the tone, the way in which we deal with the workers. Now that does not mean that changes don't have to take place, and I am working with Larry King, who has put together a series of good proposals, and Harold Brazil, the chairman of Government Ops, and representatives of the unions to look at ways in which the government needs to be restructured, some honest look at pay and bonuses and performance. I really do believe there ought to be more pay for performance and development of employees, and then we do need to develop a way of analyzing which functions ought to be performed by government and which ought to be performed by the private sector, and that's where there are going to be some difficult calls made and we're going to have to rely on the good faith and the will of the people to bring about a system that provides the better service for the city. I do think there are some good people working on it. There are going to be some crunch calls made, and we'll probably be hearing more from citizens who are looking at how it affects them individually, rather than the larger picture.

Mr. DAVIS. Thank you very much. Mr. Singletary, let me just ask you. You've got some tough ones. You've got Medicaid and Child Services, Mental Health, and that whole Human Services area. Do you want to give us some of the things you're looking at?

Mr. SINGLETARY. Mr. Chairman, it's one of the most difficult areas, as you know. The city has probably, if not the highest, one of the highest percentages of people below the poverty level in the country, and because it also has a high per capita income, it only gets the 50 percent match in Medicaid.

Medicaid consumes about $850 to $900 million annually, and that's projected to grow over the next 4 years to the point where—the Department of Human Services now consumes about 34 percent of the budget; if the projections were correct along the baseline, that would go up to almost 40 percent. So it's clear that something has to be done there, and the Mayor, in his plan, has recognized that as being an area that needs serious attention.

The focus is being made to do several things in Medicaid that should bring about significant changes over the 4 years of the plan. The Authority would encourage the administration to also look at the non-Medicaid areas in terms of reducing the spiraling cost increases in that area, but I think the primary focus will be Medicaid over the next 2 or 3 years, and I think that will make a significant difference.

Mr. DAVIS. And that really has been where the money has been going up, the amount of revenues every year expended in that area.

Mr. SINGLETARY. That's right.

Mr. DAVIS. Take that out of the picture, the city is much more stable financially in terms of where the growth has been.

Mr. SINGLETARY. Yes.

Mr. DAVIS. Just one last question, Mr. Harlan. Steve, you've been active in assisting the city to modernize its management systems and structures, and I know the Control Board has made some recommendations to set some money up, and I think one of the biggest problems the city has had is getting real time information, honest numbers upon which to make decisions. It's hard to make good decisions if we don't have the data. Can you tell us where we are in that, how long it's going to take to get some decent systems up?

Mr. HARLAN. Mr. Chairman, thank you. In the realignment of our responsibilities, because of a potential conflict of interest I might have in that area—because I used to be a partner in Peat Marwick, and Peat Marwick is in the business to do that—we decided that it would probably be the better part of good judgment that I did not get involved in that area, and so Ed Singletary, with his good control background and financial background, has taken the leadership in that, and I've taken on public works, so if you have any questions about public works. [Laughter.]

Mr. DAVIS. I've got a lot of them, but we would be here all day. That will be for another day.

Ed, could you just give us a brief summary of where we expect to go in working with the city to improve the financial management system? Coming from Fairfax, where I headed the government, the difference in the systems and the information available is night and day. It seems that if the city could get some information systems up, they could start making more intelligent decisions, because they would have more data available.

Mr. SINGLETARY. That's correct. And also, good systems also lead to greater efficiency in your work force. I mean we're doing a lot of things manually today that should be done with systems, and you can reduce your personnel cost. I think the city recognizes that this is a serious problem, and they are doing some planning work to completely change the financial management system.

The current FMS system was designed mainly as a funds management system. It's not a good budget control system. It's not a good budget management system. It doesn't provide for good accounting, and it's also designed on 1980's hardware and software.

So there's clearly a serious need there, and we hope that by the end of this fiscal year that the preliminary work will be done—it's currently underway—and that they could have started to at least procuring a system that will bring about the kinds of efficiencies that are clearly needed in that area.

Mr. DAVIS. Thank you very much. I'll now yield to the representative from the city of Washington, Delegate Norton.

Ms. NORTON. Thank you, Mr. Chairman, Dr. Brimmer, members of the Authority. I want to once again, as I did in my statement, thank you for your service under the worst conceivable conditions. It's difficult to be a financial authority in any case, but instead of no pay, you perhaps deserve combat pay, considering the conditions, essentially, that have been set for you by the Congress.

I also appreciate your willingness to work with the city to see if we can make this statute work. I want to assure you that I think the obligation is not yours alone and that the city has to do much more and to engage in far less delay so that we are not pushed to the point where, essentially, the burden is put on me to try to save home rule from a bunch of members up here who say something isn't working.

I mean I cannot do that by myself, and I just want to make this public plea, that the city and the Authority have to make this work. The Authority is not a hammer to make it work. And if not, I am being put in a quite untenable position where Members on both sides march forward and say, "Well, I guess we have to change the laws."

I just want to indicate that I very much appreciate what happened at the meeting that I had, and I know that there have been several meetings before then, and I saw a real willingness, particularly on the part of the Mayor, to think creatively about ways to implement the statute.

And could I say for the record, I think that there have developed hardened attitudes on both sides at the staff level. I think that's because it's a very difficult task, and there's not a sufficient mediating force in there when people try to do their job and that that staff level tension needs to be broken down.

I think that we came forward in the meeting with some ways to do that, with more regular meetings. They have been setting up regular meetings, but they've been in such crisis management that they haven't been able to have them all the time. And so we have a circle of noncommunication and the resulting hostility sometimes that develops when people don't communicate.

Again, I want to reiterate my own willingness to work with the city and with the Authority to do whatever I can to be helpful. You've had a much harder row to hoe than you should have. But I must say, most of that harder row to hoe has really not come because of your view of the cuts that should be made or the city's view of what should be done. Not this year—that could be a problem, but not this year.

If you look at the city's financial situation, what I think people wanted to see this year was the movement toward some downsizing and maybe some movement toward—and everybody knew it was the first year. I mean you just got there, almost—some movement toward dealing with one or another part of the operations of the District.

I think Dr. Brimmer, in his first statement, talked about low-hanging fruit. Instead of having the opportunity to look for low-hanging fruit, Congress made sure that the Authority would be involved in day-to-day prices and cash management.

The residents of the District seem to think that the problem comes from the Authority. Well, let me just say here for the record, Congress did it to you. Congress did it to UDC. Congress did it to snow removal. Congress did it for our not being able to get recycling but every other week, and this is how Congress did it.

The Authority said to the Congress, "Give us the chance to put a plan in operation before proceeding to any more cuts." It didn't wimp away from cuts, but it said, "We need to get a plan in place so we cut intelligently."

What the Congress said was, "We don't want to hear that, Authority. Go ahead and cut wherever you have to cut. Cut blind." That was not an Authority decision. That was, frankly, a House decision.

And when I say Congress, I ought to make it clear who did it, who the villain in the piece is. It's the body in which I sit, because the Senate said, "Hey, the Authority is our agent. The Authority says they need time to put a plan in place working with the District before further cuts." Why have them there unless you do what they say do?

You are spending—the District is spending at an absolutely crippling level, 4.8, which is below the level it spent at last year, not even at the reduced level that Congress gives you with the cut, and therefore, let me just put the real question that is on my mind, because I like to think ahead.

Congress says that the District should have a balanced budget in 4 years. I realize that you have not done a detailed analysis of how the city will look 4 years down the road, but looking at the status quo, do you believe that the city can have a balanced budget within 4 years if nothing else changes?

Mr. BRIMMER. Madame Congresswoman, we do have a forecast made by the Mayor for the next 4 years. Assuming that there are no changes in laws and in the outlook for revenue, that budget shows a deficit in 1997, 1998, and it shows surpluses in the following 2 years. At this juncture, given the work we have done in reviewing the revenue assumptions, it looks as though the outlook for revenue seems soundly based.

The other side is the expenditure side. The budget, as you can see in the Mayor's plan, visualizes increases in spending. So whether the balanced budget can prevail or not depends on a slowdown in the rate of growth in spending.

So if the plan is fulfilled—and as I said earlier, some of the questions we have—certainly some of the questions I have—concern the implementation of the plan and whether the presumed savings visualized in the plan can in fact be achieved. So I think there is a real possibility that there will be a balanced budget in 4 years.

How do I weigh the probability? I would say the probability is about 50–50, and—considerably higher than 50–50. But in my judgment, unless there is some increase in revenue from some source, the chance of getting that balanced budget will be very, very slim.

One thing that has convinced me is that the city cannot cut its way to a balanced budget. Certainly reductions in spending would have to contribute, but there would also need to be some increase in revenue, either from sources under the District's own control or

the Federal payment, and we should anticipate that as we look at revenue in the months ahead, as we will be doing. We will have to take a good, hard look at the Federal payment and the Federal contribution, as well.

There are other certain episodic requirements that will be there. One is the pension obligation liabilities. Here, based on the work we have done so far, I am convinced that the resolution of that problem will have to depend substantially on the Federal payment.

There are some other areas, and we will be coming before this committee in the near future to talk about funding and so on, and one of the issues we will be raising is the question of funding, the embedded debt that has accumulated over the years.

So yes, Madame Congresswoman, I believe there is a good prospect that there will be a balanced budget, that the city will achieve a balanced budget. There are certain conditions that will have to be met to make it a reality.

Ms. NORTON. And among them a revenue source, and, of course, as you say, that the assumptions hold up. The Mayor is to be complimented on his plan, and I think he is to be complimented on the interaction between his staff and the plan and the way in which information is coming out. For example, his staff who works on Medicaid believes that, apparently, the savings there may not be able to be made, and I note many, many opportunities for revision.

I'm concerned, at least on my best information, that revenue this year is down $100 million. I mean I'm not sure that could have been anticipated, and I begin to wonder if we are not going to see more of the same. This year has had the effect of frightening many people out of the District.

We know from the statistics most recently received that we have begun to hemorrhage taxpayers, and I wonder, for example, if the revenue assumptions assume we will have the same number of taxpayers, because if they do, then I think we're going to have to do something to make sure we have the same number of taxpayers.

I'm working on a tax discount bill that I hope will help in this. But of course, that is over the long run, too, and I want to endorse your notion that we need to think about revenue and think carefully. The pension plan we're working on, if the Congress accepts it, would mean an immediate windfall of money that could be spent on services. But all of that will take careful work, and the Authority will be central to that work.

I would like to ask for clarification, Dr. Brimmer, on a sentence or words from your testimony that there will be a need for additional short-term resources. We know about long-term resources, but additional short-terms resources. Were you talking about the bridge loan then, or were you talking about something else when you say short-term resources?

Mr. BRIMMER. Ms. Norton, short-term means the current fiscal year. Specifically, as we have been looking at the cash forecasts, if the city gets the Federal payment of remaining $220 million sometime this fiscal year, the city will end up with a deficit cash fall beginning in April. That's even if it gets the Federal payment.

The forecast we have in hand—and this was prepared by the chief financial officer, but we have looked at it, and our staff has scrubbed it and agree that this is a reasonably acceptable forecast.

By April, receipts minus disbursements will be negative by $69 million; May, $23 million; June, $81 million; and come July, $146 million; in August, $60 million; and only in September, when tax receipts come in and so on, would there be a surplus of $120.

But looking through the rest of the year—and this is in terms of cash—this forecast visualizes at $194 million—almost $200 million—short. So somewhere between, say, the end of March, certainly by the end of April, looking on out through the rest of the fiscal year, the city will have a severe cash shortage.

I believe that the only way to obtain funding to cover that shortage, aside from postponing payments to vendors and everybody else, is to borrow from the treasury.

Ms. NORTON. Is to what? I'm sorry.

Mr. BRIMMER. Borrow from the treasury. Since the city has no access to external capital markets, the treasury is the only potential source. That's what I had in mind. Now, as I said earlier, looking down the road and the long-term issue, we'll have to come back to that one.

Ms. NORTON. I note, in looking at the other cities that have had authorities, that they contracted out a lot of their work. For example, when contract time comes up, you're going to have labor contracts. In New York and Cleveland, they contracted that out to labor management specialists and law firms who were specialized in that.

Given the need to overhaul the District's operations, I would like to know what the makeup of the staff of the Authority is. Who are these people? What are their functions? How many are there? Who are they? Moreover, the committee asked for resumes of the staff, and they have not been received, and I wonder why they have not been received.

Mr. BRIMMER. Ms. Norton, the first question, the makeup of the staff, we do have a table of organization. I will characterize them quickly. We have on board between 25 and 30 people now, around 27, 28. The chief of staff, of course, is John Hill. The deputy senior staff member is Mark Goldstein.

Ms. NORTON. What is his specialty?

Mr. BRIMMER. May I do this, because I want to provide you with as much accurate information as I can on the spot, so would it be possible for me to ask Mr. Hill, who is here with us, to provide this description?

We know the people, know who they are, but I think it would be better if you got a description from Mr. Hill, who is the chief of staff and who knows all about the individuals' specialties and exactly what each one is doing and how each one fits in. Mr. Hill can also respond to the question about the resumes. So, with your permission, Mr. Chairman, may I bring Mr. Hill to the table?

Ms. NORTON. The chairman said we would prefer to see the resumes. If the resumes had been provided as the staff indicated the committee needed, then, of course, I wouldn't have had to ask the question at all. In deference to the fact that we've got to get out of this room within an hour, it would be quite all right with me, Mr. Chairman, if the resumes of the staff were provided to the committee forthwith.

Mr. BRIMMER. We will put them in the record for you.

Ms. NORTON. Appreciate that.

Mr. BRIMMER. And, also, we will include a table of organization describing the assignments for each person.

Ms. NORTON. Thank you very much.

[Note.—The resumes may be found in subcommittee files.]

[The information referred to follows:]

D.C. Financial Responsibility Authority Personnel/Compensation Chart

Name	Title	Annual Compensation
John W. Hill, Jr.	Executive Director	$ 115,700
Mark L. Goldstein	Deputy Director	$ 110,000
Yolanda M. Branche	Special Assistant to the Executive Director	$ 100,000
Marguerite S. Owen	Deputy General Counsel	$ 107,000
Daniel A. Rezneck	General Counsel	$ 115,000
Francis S. Smith	Counsel	$ 101,000
Terry L. Carnahan	Director of Financial Projects	$ 106,000
B. Timothy Leeth	Director of Governmental Affairs	$ 103,000
Dexter Lockamy	Chief Financial Officer	$ 109,000
Russell A Smith	Director of Management Accountability	$ 101,000
Edward H Stephenson, Jr.	Director of Financial Projects	$ 106,000
Karen W. Chambers	Procurement Program Manager	$ 82,000
Gwendolyn G. Flowers	Program Manager	$ 88,000
Doneg McDonough	Program Manager	$ 79,000
Maria D. Strudwick	Program Manager	$ 78,000
Andrew G. Reece	Program Manager	$ 62,000
William M. Clemmons	Program Analyst	$ 48,000
William B. Stroud II	Program Analyst	$ 39,000
Hyong U Yi	Program Analyst	$ 42,000
Kimberly A. Cooke	Receptionist	$ 28,000
Patricia A. Cooks	Executive Assistant to the Chairman	$ 46,000
Themitha R. Garner	Executive Assistant	$ 38,000
Deborah L. Hawkins	Executive Assistant to the Exec. Dir.	$ 38,000
LaVerne Lee	Office Manager	$ 43,000
Natosha T. Mahoney	Assistant Office Manager	$ 41,000
Scothelia Martin	Program Assistant	$ 37,500
Andrea L. Riley	Paralegal	$ 37,000
Kelley A. Thomas	Office Assistant	$ 19,000
Diane C. Williams	Executive Assistant	$ 38,000
Christine A. Wilson	Legal Assistant	$ 39,000
Frances P. Clark (Part time)	Director of Financial Projects	$ 47,500

Ms. NORTON. One more question. When you sit down with the Mayor—and I know this is going to be an exhausting but productive exercise, and that all kinds of changes and the rest will be made—do you contemplate setting out goals for operational reform on a yearly basis?

Part of the problem this year, of course, is that you've had to manage cash and just manage what Congress has indicated you had to do to make cuts, and you have had to manage with a delayed Federal payment. As a result, for this fiscal year it would be difficult for the city and the Authority to be able to say that something that something that residents can see and feel has happened.

Do you contemplate setting out goals by year so that, for example, 1996, the goal for helping the city fix parts of the Police Department or parts of Medicaid will be X, and residents will be able to see X.

By the way, I ask about this goal year-by-year approach, because I think it is preferable to a more impressionistic approach as to whether or not people or residents feel that something has changed. That often is so subjective. But if residents are told that there is—shall I get very mundane, now—that half of the police cars will be on the street, it will so increase confidence that even though people may not feel that, I think they will feel better about the city.

So my question really has to do with goals that are specifically set out on a year-by-year basis having to do with service improvement so that residents have a way of knowing whether the city, working with the Authority, has met its own goals.

Mr. BRIMMER. Mrs. Norton, the way you formulate it shows is imaginative and I'm intrigued by it, but actually, we have not done that. As you properly described, our activities so far have been quite episodic. We have been consumed and taxed to deal with the issues, some of which were mandated by Congress, some of which have come up naturally.

But I'm intrigued with the notion. I will give it a great deal of thought. But as of now, we have not done that. I would imagine that after consideration we will conclude that some kind of effort at what I would describe as strategic planning of our own activities would be highly desirable, and I can assure you that we will devote as much time and thought to the matter as we can find.

Ms. NORTON. Thank you very much, Mr. Chairman. May I thank the members of the Authority again, and thank you for your indulgence.

Mr. DAVIS. And thank you very much. Let me just ask one very brief question. We have talked about splitting up this city's payment for the remainder of the year into some amount this month and maybe some the next month. What does that do to the cash-flow?

Mr. BRIMMER. It would certainly have an—$100 million more is helpful. But Mr. Chairman, the process, as much as the amount of cash, is what is troublesome. Such episodic, piecemeal payment makes it impossible to plan and to schedule, and so it wouldn't be counterproductive, but it certainly would not be very productive.

So I would hope that the Congress would see fit to appropriate the remaining amount so we'll know we have it in hand. We can plan and not disrupt the process any longer.

Mr. DAVIS. Thank you very much. Thank all of you for what you are doing for the city.

I'm going to go out of order, if there's no objection, and call now the Mayor and the chairman of the City Council, and then we'll hear from the IG and the CFO. Thank you, Mr. Mayor and Chairman Clarke, our next panel. As you know, it's the policy of this committee that all witnesses have to be sworn before they testify.

[Witnesses sworn.]

Mr. DAVIS. Thank you all very much. We have Mr. Block here, the District Council budget person, with Mr. Clarke.

Mr. CLARKE. Yes.

Mr. DAVIS. I appreciate your making it up. You can be seated.

Just let me make a couple of observations. I want to move through as quickly as we can. Both of you gentlemen deal most directly, as elected public officials, with issues that we're discussing today and in our hearing next week.

I want to commend you, Mr. Mayor, for the positive steps that you've taken recently. Your transformation budget and your multiyear plan is a realistic response to the economic crisis we face in the Nation's Capital.

You have also recently taken some additional and necessary steps to move toward a balanced budget. This is a welcome departure from former times, and it makes me optimistic, and I think you heard from the Control Board, it makes them optimistic that we can continue to work together as part of the team on a broad range of common concerns.

Mr. Clarke, the Council appears to have had a difficult time dealing with the extraordinary multiple crises currently besetting the District. I detect a willingness on the part of most of the Council to deal with the problems that confront you, but a lack of information, solid ideas, and perhaps consultation by both the city executive and the Control Board seem to have caused the Council unity to suffer. I hope that this situation is being dealt with, and I look forward to hearing your opinions today.

Go ahead, Mr. Mayor.

STATEMENTS OF MARION BARRY, MAYOR, DISTRICT OF COLUMBIA; AND DAVID A. CLARKE, CHAIRMAN, DISTRICT OF COLUMBIA CITY COUNCIL

Mr. BARRY. Good morning, Chairman Davis, and to our honored Congresswoman, Ms. Norton. Let me thank you for the opportunity to testify on the implementation of Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Mr. Chairman, before I get into my analysis of the act and all the implementation of it, because of inaction by the Congress, because of the lack of a budget, here it is March 19, 1996. The finances of the District of Columbia are worse today than they were this time last year.

I repeat that because of the inaction of the Congress in passing the city's budget, which will deny us almost $227 million of Federal

payment, which ordinarily comes in the fall, our finances are worse today than they were a year ago.

Mr. DAVIS. You get no argument here.

Mr. BARRY. As of yesterday, the city government owed hospital providers and nursing homes and other Medicaid providers $230-odd million. That's not right for these business people, these health care providers, to be carrying this debt on their backs, and almost some $80 million in other vendor payments, of business people that have not been paid.

So I know we're going to have a hearing on finances next week, but I think the city ought to know, the citizens ought to know, that if this act was designed to stabilize our finances and move us to a much more stable, predictable situation for the future, if this kind of activity continues for the 1997 budget or 1998 budget, this act would have been subject to forces that weren't anticipated at the time.

Also, Mr. Chairman, let me thank you for the time and attention you've paid to the District. I know when you ran for office in northern Virginia, you had no idea that you would also be working as hard as you do for the citizens of the District. I certainly want to thank you for that, and I hope your constituents understand that it's all good work for the cause of America's first city and our Nation's Capital.

Mr. Chairman, in terms of the act, as you know, initially, when the idea of act came up, I was not for a Control Board. I recognized that there are other cities around the country that had worse problems than we.

But after the dialog started moving, it was clear to me that Congress needed an entity in order to assure itself that it had something between itself and the city government to feel some comfort in us going to the U.S. Treasury. That was a political act—I understand that—and I worked as hard as I could to at least point out some of the difficulties that may be there and also some of the good things.

Let me say that there is a built-in conflict—and I'll just point to a couple of them. I don't think any chief executive in the country, whether it's in the private sector or in the public sector, has no absolute control over budget preparation. In this act, the budget preparation is vested in the CFO and in the Budget Office, which comes under the CFO.

I think it's appropriate, what Congress was concerned about and what I was concerned about, and citizens, was that the city's credibility was on the line in terms of revenue estimating and budget execution, budgets being overspent. Those are the areas, it seems to me, that, looking in retrospect, should have been the major focus of the act and which I certainly support. But budget preparation is a critical need.

I'm not suggesting any changes in this act, but I'm just pointing out, if we were to change it, we need to give the Mayor budget preparation because under this act, theoretically—it hasn't happened quite this way—the CFO could refuse to supply the Mayor with the budget information and in the format that the Mayor wants. Mr. Williams and I have been working on that situation.

All the budget information could not be given to me on a timely basis. I could want it on Tuesday, and the CFO, theoretically, could say, "Well, I'm not ready to give it to you on Tuesday," so as we look at the future, if we ever make any changes, certainly the budget preparation process ought to be under the absolute control of the Mayor.

Second, nowhere in public government that I've been able to find, Mr. Chairman, do you have a CFO that's torn between the Mayor and some other entity, which means that Mr. Williams, or whoever is CFO, if I indicate I want this done this way, and the Control Board indicates it wants it done that way, you know, he's torn in the middle.

I know that it was a political necessity to move toward what people call—I think to the extreme—an independent CFO. Independence, it seems to me, is one where the numbers are verified by the CFO and the Mayor, and no one else can then tamper with them. Budget execution is the main part of this, to make sure that the controller function is there, and that's a real, real conflict. So I thought I would point that out.

Also, Mr. Chairman, in terms of the act itself, I'm the first to say that the Control Board and the city government got off to a rocky start. I think part of that has to do with the tone set by certain Members of Congress. There were certain Members of Congress—that does not include you—who gave the impression that this Control Board was to be a supercop, one of punishment and one of hammering across the head to get something done.

Congressman Walsh from time to time says the Control Board is not tough enough. What does that mean, "tough enough"? And so that tone has begun to change somewhat, but when that tone comes from the leadership of the appropriations process, the Control Board, I'm sure, has to be sensitive to what that means. That's why I think, initially, the Board and the Mayor and sometimes the Council got off to a rocky start.

That has changed significantly in the sense that we meet more now. We talk more. We're less confrontational. This process, Mr. Chairman and Ms. Norton, as you all know, won't work unless there is complete cooperation and trust between the various parties. It can't be a big I and a little you. It has to be that we have roles and responsibilities to play, and that the Control Board can only succeed if the executive succeeds and the Council succeeds.

So we come with that understanding now that we have to work closer together. There will be some political differences. There will be some program differences, but it's how you began to solve that. Back to 1995, when this act was created, we were all traumatized by the size of this deficit—$335 million of 1994—and we moved to try to figure out how this act could assist us in that regard.

Another observation about the act is that, in other jurisdictions where you've had control boards or some variations of these kind of boards, there has always been a provision for retiring the deficit to get you jump-started in that regard. There were no provisions in this act to jump-start the deficit. There should have been.

We should have tackled that last summer on getting the $335 million out of the way. That way, we could focus our time and attention on system design, on improving our systems, of balancing

our budgets or making the very difficult decisions as it relates to budget cuts.

But most of the time—and Mr. Williams will tell you when he testifies, and certainly Mr. Rogers and I know that we spend 15 to 20 percent of our time, probably every day, on tracking down vouchers, talking to business people about why they have not gotten paid, trying to get somebody not to cut the heat off or cut the water off or close the police rental place. If we had financed this deficit early on, we wouldn't be doing this, Mr. Chairman. Our time could be better spent on trying to better manage the government now.

We have been talking with the Control Board and Members of Congress about how we can finance this deficit. There were some Members of Congress—unfairly so and without the reality—who thought you could cut your way out of this deficit. We couldn't do that. We'll talk more about that next week.

And so that has hampered us and our ability to focus on the other 11 or 12 areas of the act, in terms of structural reform, management reforms, and et cetera. But in spite of all that, we were able to move ahead in this area.

I notice that Dr. Brimmer, early on, has said that the Board didn't understand—well, wasn't aware of the complete nature or the severity of the problem. That's unfortunate because, in February 1995, we laid out the problem and the crisis. I called their attention to the revenue implications of the 1994 audit.

We gave wide attention to the McKinsey report, which outlined in great detail our revenue and management predicament. Also, we charted a course for the remainder of fiscal year 95 which promised to reverse the spending trend, applied stringent spending controls, and began the process of change management. We have worked hard to keep these promises.

Also, Mr. Chairman—and you talked a little bit about this in your opening statement, and others talked about it—it's only natural for participants and observers in the process to focus on instant results, short-term issues, and daily debates. These were far more visible than the ongoing work toward long-range change and achievement.

Thus, a series of controversies hovered over the adjustment process, often appearing more significant than they really were. There was a perception, for instance, that the presence of the Control Board was met with hostility and lack of cooperation on the part of the Barry administration. That's not true.

I said early on, once it was clear we were going to have a financial management system authority, I would be extremely cooperative, would urge and demand all of the employees under my control to be cooperative. Cooperation does not mean, though, that you don't disagree on a program priority.

If someone says to me that we're going to recommend you eliminate the Office of Aging, that's a program difference. I'm going to say, "No, I'm not going to agree to that." So disagreeing on a program priority or disagreeing on a philosophical point about whether or not you fund this program or this program, that's not lack of cooperation. That is a matter that you have to take into consideration.

I view myself as having been elected by the people of Washington, and part of my responsibility is to reflect their values and their views and to respect their priorities in the budget process. So we have done that. We've been very cooperative.

Let me speak a little bit about the CFO. There has been a lot of discussion about the independence of the CFO. I've talked already about that. This is more structure than personal. The act was carefully balanced politically.

Ms. Norton knows, and Mr. Davis, you know, that there was some divergent points of view about the CFO. It's very difficult for any Mayor to operate without having some control over the CFO and the budget process. In fact, the Congress recognizes that with its own self. You have the Congressional Budget Office, which assists the Congress in information gathering and sharing, as well as looking at what OMB and the President sends over to you.

So I was interested in trying to make sure that the CFO was more aligned to the executive branch of government than the Control Board. There were others who wanted the CFO not to have anything to do with the Mayor in terms of any institutional alignment and wanted complete control of the CFO by the Control Board.

As you know, we struck a political balance where I nominate the CFO and it's confirmed by the Board. But it ought to be clear that the attitude ought to be that the CFO has equal responsibility to the Mayor—in fact, more responsibility to the Mayor in budget preparation than to the Board, and we're working to try to clear that up.

Then there was questions about the Budget Office. As you know, before this act, I had the authority, or the Mayor had the authority, to appoint the budget director with the consent of the Council, and the same is true for finance and revenue.

To us—to Ms. Norton and myself—those were basic home rule issues. Those were basic home rule issues. They might have been awkward in how you do it, but they were basic home rule issues, to take from the local government the power of the budget officer and the power of the finance and revenue officer.

Also in these areas, there are a half a dozen or so excepted appointments which deal with the Mayor having the authority to appoint people, and they serve at his or her pleasure. We've worked this out in the sense that I'm prepared to delegate to the CFO, in consultation with me, the appointment of the budget director and the director of finance and revenue.

Also I'm prepared, in consultation with me, to give the CFO the authority to remove those persons if they're not performing. The way I manage, I don't want any deputies or people below the head of the department, to be forced to work with somebody that either the people is incapable and incompetent or they're incompatible.

So it seems to me that will be worked out, and there's no need for us to continue to say, "Let's strengthen the power of the CFO, and let's take these authorities from the Mayor." Again, that kind of tone and that kind of climate does not invite cooperation, it invites conflict.

I would hope that those who would say that would stop talking in that manner and talk in a manner of "How can we make this

relationship work more effectively?" which is a different kind of tone than taking something for the Mayor or giving it over here.

As an elected official, Mr. Davis and Ms. Norton, you know we have a responsibility to our constituency, and we don't want to feel as though we don't have any authority to make budget decisions or make priorities.

So I hope that after this hearing that tone would change, not by taking it here, but that we're trying to more effectively make this act work, because it was fashioned at a time we didn't know enough about all of the implementation parts of it. We now know how it works and does not work.

Also, Mr. Chairman, I'm delighted to hear you and others comment on my Transformation Plan. We are serious about transforming Washington, making America's first city competitive, making our city competitive with the region, with the Nation, and to make our government competitive, to make it a government that's well disciplined, well managed, smaller, customer friendly, business friendly, do it right the first time, dependable kind of government. That's what's important to us. We want this government to be the very best that we know.

Also, Mr. Chairman, part of the transformation, as you look at it, was based on the reality that people throughout America really do care what happens here. There's a national constituency for a first class capital city.

People outside this city and this region want to believe that Washington, DC, is a reflection of America's highest values and a place of opportunity for America's brightest goals. We need everyone's help and support in that regard, and this act, with some internal adjustments, can be of assistance.

Mr. Chairman and members of the committee—and I've said this to the Control Board—I was and I'm still concerned that we ought to get on with the broader work of this act. I think we've spent too much time, in my view, reviewing contracts, as an example. That's not solving the structural problems of the government.

We ought to be looking at the relationship between the Federal Government and the District government, with corrections, with Medicaid, with pensions, and also with the financial management system. Our financial management system is the same today as it was this time last year. That should have been an emphasis of the Board.

Our Procurement Act, which I pointed out last year, is antiquated and needed some major transformation. We want to do that. The Board should have been more of assistance to us in working on those particular items, and I think we're beginning to do that. I think we've been talking about this at our retreat, what ought to be the focus for the Board.

The other thing, I think, which is beginning to change, there was a tone set earlier on by Members of the Congress and by this in general, that the Board was supposed to tell us how the train got wrecked after the train ran off the track. That's not the role of this Board.

This Board ought to be in the locomotive, in the cab with me and with the Council, driving this locomotive, helping to steer it, as opposed to saying, "Here's what happened after it wrecked." But I

think we're beginning now to get a tone where we're all working together to steer the locomotive, as opposed to trying to beat us across the head about what we didn't do.

I'm optimistic that in spite of these difficulties, in spite of the fact we don't have a budget—and this is really something in America, not to have a budget—that we're still making a lot of progress in making this city more functional and making services more dependable and in resolving some of the structural problems which confront us. Thank you.

Mr. DAVIS. Thank you. Mr. Mayor, let me just say, I think that we agree with you in terms of the city's budget situation, that the Congress has been part of the problem. If it's any consolation, half the Federal Government's agencies aren't funded either and don't have a budget this year. But in this case, you've needed the cash-flow and the payment, and we have got to do better. This is unacceptable. Thank you.

[The prepared statement of Mr. Barry follows:]

Testimony Of

MARION BARRY, JR.

Mayor
District of Columbia
Before The
CONGRESS OF THE UNITED STATES
March 19, 1996

Good morning, Chairman Davis and members of the House Subcommittee on he District of Columbia.

Thank you for this opportunity to testify on the implementation of Public Law 04-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Let me say at the outset that I did not favor this act. It comes with many built-n conflicts. It makes many promises, but leaves much to the imagination and nclination of the control board and its staff. It diminishes the influence of the citizen.

With these reservations, let me report, however, that the implementation of his act is progressing to the benefit of the city's residents and our interests as the Nation's Capitol. With only a few months of experience, it is hardly a time to uggest changes. But it is appropriate to review our progress.

This act was created out of political necessity. Many urban centers in

America have seen far worse financial crisis than faced the District at the beginning of 1995. But the precipitous nature of our finances as recorded in the years prior to 1995 was shocking. Few of us could believe the free-fall reflected in the FY '94 audit. It documented overspending of $335 million -- over 10 percent of our local budget -- and no end in sight.

To our Government, the news was devastating. We were cut off from the private markets. To provide access to U.S. Treasury borrowing, it became clear that the Congress needed a mechanism to assure improvements in the District's financial system and discipline.

We accepted that reality and we actively participated in the negotiations which produced this law and the resulting Financial Authority.

We also accepted the idea that unaddressed management problems required broader powers for the control board than other cities experienced. At the same time, this legislation held out the hope for correcting the structural imbalances that have plagued our resource base since the beginning of limited Home Rule.

Earlier, we heard Dr. Brimmer say that the District's condition was unknown as the control board began its work. But that is hardly true. My discoveries and public announcements of the details of our crisis situation in February of 1995 were explicit, detailed, well advertised, and turned out to be very precise. The specific instructions to the Authority for structural changes listed in Section 207 of the Act are precisely the recommendations I made publicly and privately.

I laid out the scope and nature of our crisis. I called attention to the revenue implications of the FY '94 Audit. I gave wide attention to the McKinsey Report which outlined in great detail our revenue and management predicament.

In addition, I charted a course for the remainder of the Fiscal Year 1995

which promised to reverse the spending trend, apply stringent spending controls, and begin the process of changed managment. These promises were kept by my Administration even as debate about the coming control board was conducted in this Committee.

In spite of the clear political need for this act, the creation of a powerful, unelected control board was a dramatic and radical change for our Government and our citizens. As with any structural change, this new entity in government needed time to build productive relationships with the existing environment. And our existing government and civic leadership needed time to adjust to new arrangements in decision making and shared responsibility.

It is only natural for participants and observers in the process to focus on instant results, short-term issues, and daily debates. These were far more visible than the ongoing work toward long range change and achievement.

Thus, a series of controversies hovered over the adjustment process, often appearing more significant that they really were.

There was a perception, for instance, that the presence of the control board was met with hostility and lack of cooperation. I do not believe this to be true. We all gave serious attention to the development of protocols, roles, and functions. But very early in the process, we all agreed that the only way the District was to succeed was for the elected government and the control board to succeed.

A key barrier to the effectiveness of this new arrangement has been the failure to address our accumulated debt. Lack of cash has perpetuated the crisis nature of Government far longer than it should. Every comparable situation requiring the intervention of a control board has begun with resolving the cash shortage. Every private sector business turn-around begins with separating the cash and budget

features of the situation.

It is not good business to finance debt on the backs of a business community you later expect to partner in the rescue effort. Yet today, DC Government finances more than $300 million of rolling debt on the backs of our vendors.

Another problem for the control board has been the mixed signals it has received from Congress. The control board is clearly a creature of Congressional ovesight and intervention. But while the law speaks of renewal and assistance, many signals from the Authority's sponsors here in the Congress dwell on the themes of punishment and retribution. It has often been hinted that no weapon should be overlooked in the attempt to keep the DC Government in submission to the will of Congress.

This continued call for "toughness" on the part of our overseers is hardly useful in creating a dialogue of assistance, collaboration, and progress. The public dialogue on contract reviews by the control board, for instance, went to great lengths to "discover" the shortcomings of the Government's antiquated procurement system.

One of the first acts of this Administration was to point out that our procurement laws simply don't work. Long before the control board began its work, our special Procurment Task Force was completing work that will lead to genuine reform of our entire purchasing system.

As time has passed and various issues resolved, we have built a productive relationship between the Administration and the control board. Looking back, we could have met more often, and much earlier. Looking forward, I believe we have set the stage for the kind of work that is required. I also believe that our process lends credibility to the results that will emerge.

I did not agree with every provision of this act. You will recall that I argued strenuously for a balanced view of the Chief Financial Officer's independence. The need for financial information in the preparation of policy decisions is critical.

I predicted the difficulty of establishing a totally independent entity with vague and conflicting responsibilities for both accountability and policy functions. I believed then, and now, that the CFO must be responsive to the Mayor as well as the Financial Authority.

My view did not prevail, but our work together has. We are all doing our best to make this arrangement work. As we move forward in a collaborative fashion, the focus is changing from toughness to assistance.

I hope you have studied my recently released plan for the transformation of DC's Government. Much of it begins implementation in the FY '97 Budget. I am gratified by the degree that all parties have responded to this initiative.

It remains clear to me that the longer people work together on the issues that involve the prosperity and success of America's First City, the more they share similar goals. Each day, more people join me in my vision for this city's future.

There is much work ahead, of course. I daily reflect on Section 207 of the Act. And I wish the control board would begin to reflect on it more.

As you know, Section 207 addresses our long range needs to build disciplined, accountable, and adequate finances for District Government. To reach the stability we all seek, we must address our relationships with the Federal Government, the modification and expansion of our revenue base, resolution of the long-standing pension liabilities of the Federal Government, the effects of court orders on operations, and the improvement and training of our workforce.

These issues are between us and long term viability. They require the hard

work of my Administration and the Financial Authority. They also require the hard work of Congress.

Mr. Chairman, there is a lot of talk about who cares about D.C. What does it matter whether Congress makes the Federal payment or not? Who cares that we are the only city in America whose locally generated funds are appropriated through the Federal process?

Part of the vision we pursue for America's First City is based on the reality that people throughout America really do care what happens here. There is a national constituency for a first-class capital city. People outside this city and this region want to believe that Washington, D.C., is a reflection of America's highest values and a place of opportunity for America's brightest goals.

My transformation plan is a dedicated to creating a new government for the District of Columbia. We have focused on things we can control. We are adapting to current revenue realities. And we put fundamental expectations of government first: Safe neighborhoods, reliable trash collection, good streets, affordable health services, first rate education, dependable fire protection, reliable "safety net" care for the most vulnerable in our city, and job-producing economic development.

I cannot leave here today without asking this committee's support for this vision and these goals. Let this initiative be our doorway to unity. Let us work together for America's First City.

Thank you. I welcome your questions.

Mr. DAVIS. Mr. Clarke.

Mr. CLARKE. Thank you, Mr. Chairman, and the members of your subcommittee. I'm pleased to be here on behalf of the Council of the District of Columbia. I know a couple of my members are here. I see Council Member Charlene Jarvis, and I see Council Member Frank Smith, and Council Member Mason is here, too. I'm joined at the table by the director of budget and finance of the City Council, and we're glad to present this testimony.

You asked us to comment upon the work of the Control Board. Let me start by saying we're very pleased that they're there. We had some question as to whether we needed one. Some people have said I opposed having one; I did not. I waited to determine whether we did need one, and I came to that conclusion, and so did the Council.

We're particularly pleased—and I say this particularly to Congresswoman Norton, because she stood for this point—that all the Board members are Washingtonians. That's very helpful, because there is a sense of community amongst us, albeit it with different issues and different roles and constructive tension put between us.

They are Washingtonians and part of our community. We view them that way, and they view us that way, and I think that's extremely important in our life, and it has helped quite a lot as we've tried to grow together.

The Council has been very proactive in seeking communication. We have repeatedly asked to meet with the Board from the day that the President appointed the five members. I remember calling up the members one by one and saying that I would like to meet with them right away.

It was determined by Chairman Brimmer and myself that we should do that first, chairman to chairman, and then members to members, and then staff to staff. But that began this process, and it has gone some distance since then.

We have found some problems in communication, particularly with the inquiries from us and the responses to the Board and back and forth. Notice of hearings has been a problem. When the Board is going to hold their hearings, sometimes we don't know it 24 hours before then. That has resolved itself to some extent.

There has been a particular problem with respect to the standards of measures by which we were going to be measured, particularly—and I'll give you a couple of examples—in the question of how contracting out would be credited for FTE reductions.

There was a charge to us that we ultimately met to reduce the FTE's by a certain level, and we did that, but when we provided for contracting, for each contract, how many FTE's would be credited? We worked that out, too. The point is, we had problems, and we worked them out.

There has been a recent problem, for instance, with respect to something called double counting in the gross budget, when one dollar is counted twice, coming down as the revenue, going over to another agency, and then it's spent out again, it's double counted. There has been a problem there, and we're trying to work that out. But I'll talk about that a little bit more.

One problem that has existed with communication is it has not been very tripartite. The Council has pushed both the executive

and the Board, seriously and repeatedly, to have tri-level communication between the Mayor, the Council, and the Board.

When we've had these kind of meetings, either at the principals' level of the Board members, Mayor, and City Council, or at the staff level, through something called the initiative implementing committee and budget structure group, there has been great improvement.

You did say in your statement, Mr. Davis, that you thought maybe the Council was a little bit out of this, out of the communication, but we have been proactive with respect to that. I just want to put that on the record. I hope you might know that. I'm sure Congressman Norton knows it. The Council has very aggressively sought communication with our teammates in this effort.

We have some concerns regarding matters where we need to see some less things from the Board—we would like to see some less things from the Board—and some places, particularly, where we want to see some more things from the Board.

With respect to the review of legislation, we're concerned about an apparent but not yet really manifested desire by the Board to get far beyond financial issues. Let me just give you an example. It didn't come to reality, but there was legislation passed by the City Council to change the structure of the board that reviews tax assessments.

There was inquiry made to us by the Board staff, asking about whether that would not give the Mayor more discretion in appointing people to that board. We didn't get any indication that there was any financial implications to it, just that there might be too much discretion in the Mayor with respect to that.

What we were told was that there was consideration of proposing to the Board that they reject that. We changed the legislation to address that concern, if you will, but it had nothing to do, really, with the financial affairs.

There is a question as to the scope of the review. We have had some discussions with the Board regarding that and understood some of the actual factual background around which that came down. But there was that concern, and I do think that it needs to be noted.

We have a particular concern with some of the things the Board recently did in its action on our fiscal year 96 budget when it took some courses that seemed to reflect policy and, again, not financial wisdom.

They suggested, for instance, that we increase the budget for ANC's—advisory neighborhood commissions. Now, we had bit the bullet and cut the budget for the ANC's, and the Board, the guardian of our financial affairs, took it upon itself to increase the ANC's, and that irked us a little bit.

And second, we took a very hard decision, a very hard decision to say that the program for summer employment of our youth should be restricted on a means test to young people from families under the poverty line and not available to all persons, middle class and probably even upper class, as well.

We took that position; the Mayor vetoed us; we overrode it, and it went back up. The Board determined on the Mayor's side of that issue, again causing an increase in financial costs. We had some

onsiderable concerns with that, thinking that it was policy and not inancial austerity that was driving the Board.

But we have had the opportunity to talk with them and to talk vith the Board about these concerns, in especially that weekend onference that Chairman Brimmer mentioned when he talked ıere. We have moved forward.

Now, we do want some things less, but even more things we vant more of from the Board. Now, you may not believe it, but the Council wants to see some more things from the Board. We want o see more contract review. I think I disagree with the Mayor. We ook for the Board to do some good contract review.

We're concerned about our contracts as being a place where noney is being spent and decisions are being made, and we don't ılways get in touch with it, except those which go over $1 million or the course of more than a year. So we look for more contract y the Board. We encourage that.

We encourage more management analysis and recommendations vith respect to how to improve management coming from the Board, particularly in two areas, procurement and personnel, vhich are central both to the budgetary structure of the city, finanial affairs of the city, and the operations of the city. We would like o see the Board more involved with that.

We particularly want to see something that was just touched ıpon lightly, and that's the question of revenues. It never seems o be gotten to, because it's a very difficult issue to deal with. We're rying to face that issue with respect to our own revenues that we enerate in the District of Columbia.

Of course, in that question, you usually come to the question of axes, but we're not necessarily looking to place out more taxes ight now, because we already have a load of them in Washington, DC, so much so that we're noncompetitive with other jurisdictions, Mr. Davis, in bringing income and business to the District of Columbia. We want to become competitive in that area, so we're in he process of putting into place a tax revision commission.

The second vote on that legislation is coming on April 2d, and ve hope to get that appointed and have the Mayor appoint some ersons to that to look at our tax structure, which we haven't done ver the course of the last 20 years, and make recommendations ıot to raise more taxes, necessarily—though there might be a menion of that—but to see how the taxes can be reorganized and structured so as to produce revenue for the operation of the city ınd a tax base which will be more attractive.

The Board has been given that information. We would like to see he Board involved in responding to it. They have been asked for ı response to the tax revision commission structure itself, and we ısk as we go along for them to look at what comes forward from hat commission.

The other issues regarding revenues get to a related issue, Mr. Chairman, and that is independence. I guess I'm going to get a litle bit touchy, I guess, with respect to this, because we're talking ıbout independence from you, and we're talking about the indeendence from the Congress.

We're talking about that part of the FRMA law which charged the Board not only to advise the Council but to advise the Congress with respect to matters of the fiscal integrity of the city.

That means, in the case of revenue, some serious questions. It means the financial responsibilities of the region for the operation of the core. You can call that commuter tax. You can get any kind of other name that might be a hot button name out there, but that is an issue that they should address.

Dr. Brimmer did discuss it. He didn't used the words, "commuter tax," he discussed the responsibilities of the region for the core. But they do need to do that, and you need to listen to them with respect to that, and not only that, other issues that are before the Congress only for their consideration.

The unfunded pension liability, $4.2 billion for benefits that were voted from 1918 back up until now, benefits that our police officers, firefighters, teachers, and now judges, are getting are coming from benefits that the Congress legislated but never provided a funding mechanism for.

So we're spending $360 million a year now just to pay as we go with respect to that. That has to be faced not only by the Board and the Council—and the Council has faced it. We work cooperatively with Congresswoman Norton with respect to that—but the Congress is going to have to face that, as well. The Board needs to get into that. We look forward to the Board doing more of that.

There are other issues, as well, where we're going to have to look to the Board to face you in something of the creative tension that they face us, as a charge to do what needs to be done.

We look to them to join with us in charging you, giving you a challenge with respect to the Federal payment. We do not have a formula-based Federal payment anymore, but there is a serious need for that for the purposes of planning as well as revenue production.

We look to the Board to challenge you with respect to State functions that have been posed upon the city of Washington, like have been imposed upon a State and which were welcomed, frankly, by the city of Washington when we wanted to perceive ourselves as growing into State status, but are extremely difficult during the current years of recession.

Particularly in that area are the questions of Medicaid match. We are going to want the Board to be an advocate for the city in a team with us to come to you, the Congress, and challenge you with respect to what's needed to put our city in good financial order.

I can be very frank, Mr. Chairman and members. The Congress has been a part of the problem. We have had more difficulty in going through this, frankly, with the actions of the Congress than we have with the actions of the Board. We've come to some communication and some working relationship with the Board, and then we find everything's undone.

I gave you a couple of examples, one sort of a major one, one a very relevant one, the question of how we first handled the fiscal year 96 budget. We were charged by the Board to come back with certain quantitative results with respect to FTE reductions. We did that. It was a difficult task, but we did it.

When we came before the Congress with that budget, we brought it up, the Mayor brought it up, and the Board brought it up, and the chairperson of the Subcommittee on Appropriations for the District of Columbia of the Committee on Appropriations congratulated the Council, congratulated the Mayor, and I believe he congratulated the Board.

We all felt very good. We had finally achieved something, and we could do what one Board member told me one time. When we get through the FTE issue, we can move on to the other issues we want to get to, like those that I just discussed.

Well, it turns out, in a matter of a week or 2 weeks, the Subcommittee on the District of Columbia of the Committee on Appropriations said, "Oh, we want more"—first it was going to be $250 million more; then it was going to be $140 million more. Well, it wound up $150 million more—"We want more cuts."

So the Board had to go back into the budget, get away from these other issues that we were hoping to get to, getting away from that plateau from which we were hoping to move to other issues, and go back and try to cut some more to the 4.9.

Then we thought we had found the way of doing that. We thought it's an accounting issue, and it was the question of double counting. The Congress had provided that we had to do a gross budget, pulling all the revenues together and all the expenses together.

When we looked through that, we found that in a number of places we were double counting, like the one I just told you, where a dollar comes down into revenue and it goes to agency A. It's moved over to agency B—say in the lottery. It comes in the lottery from the gambler and then its spent for services. That's booked as two revenues and two expenses.

So we asked the CFO. We didn't just come up with this as a fault, sitting in the City Council office or something. We asked the CFO, and he said, "Well, you're right on that."

We asked other people. In fact, we asked at least one member of the Authority. "You're right on that." But we're told—we were told this, now—that a staffer from the Congress said, "If you do that, the Congress will probably just give you a different charge as to what you've got to cut back to."

Now, we're trying to follow the wisdom of the CFO and respected accountants, and we also called upon certified public accountants of the city, the District of Columbia Association of Certified Public Accountants, which have given us some advice on the City Council. We've appreciated it very much, and we find that this is the right way to do it.

We go and try to do it that way, and then we're zinged again, because somebody—a staffer in the Congress—is opining that that's not what they want to see done. That creates the situation—I say it respectfully, but I also say it critically—where the Congress is interfering with what Congress has tried to create by this Board coming together to produce some wisdom about what to do.

It goes and does something. We agree with it to do something. That teamwork is established, and we can't move on, because the issue is always reopened. They call it upping the ante, and it leads me sometimes to think about the convenience, frankly—and I'm not

charging this as a motivation, but I have to observe it as an observation.

There's a level of convenience to the Congress that created the unfunded liability, going back to 1918. Not to face that now, not to face the issues with respect to how it has structured in a region, a vibrant economic region, with the core having 47 percent of its land exempt and 60-some percent of it exempt, by the legislation Congress passed itself, not to face that by simply saying we're going to change the budget standards, to say, "Board, you go back and look at that budget again. You go back and look at the budget again," whereupon you go into a cycle.

OK, we reduced—we produced some more cuts. The cuts reduced some more services, and reduced services produced lesser revenues, and then we have either deficits or a demand for more cuts. We go into an endless cycle downward. I really submit to you, the Congress, that you're partially responsible for that.

I guess all I have left from the Constitution is not Article I, Section 8, Clause 17, anymore, but I still have the first amendment, so I've just exercised it, and I appreciate the opportunity to come here and do it. Thank you.

[The prepared statement of Mr. Clarke follows:]

TESTIMONY OF
CITY COUNCIL CHAIRMAN DAVID A. CLARKE

Good morning Chairman Davis and other members of the Subcommittee. I thank you for the opportunity to testify on the District of Columbia Financial Responsibility and Management Assistance Authority. My testimony will offer background, as well as a discussion of our experience with this new Authority, in terms of information sharing, the Authority's review of contracts and legislation, the role of the new CFO and Inspector General in this new political/administrative structure, as well as offer several observations that relate to the FY 96 and 97 budget making processes. This will be done in the context of the FRMA legislation (Public Law 104-8). Finally, I will offer several recommendations that can strengthen and make the various institutional relationships more effective, thereby further facilitating the District's financial recovery efforts.

Background:

The District differs from jurisdictions such as New York, Philadelphia, and Cleveland in the area of the process by which FRMA was established. Unlike FRMA, the financial oversight boards in the aforementioned jurisdictions, were created at the state level, in a legislative environment that provided for full participation and representation on the part of the jurisdiction which was the subject of the oversight action. In the case of the District, there was no such involvement, or checks and balances that protected the rights and liberties of the District's local government processes and institutions, and thereby its citizenry. The very manner in which the Authority was set-up, unlike in other municipalities creates an unhealthy tension with local elected government and fear among citizens of a Congressional takeover, or at least decisions made without their input. This is not meant to serve as an indictment against the Authority, but merely to point

out a fundamental flaw with respect to the FRMA legislation.

Information Sharing:

As stated earlier, the very nature of the establishment of the Authority has not been conducive to meaningful information sharing. The institutional distrust which existed, and perhaps still does, has made inter-institutional communications somewhat difficult. Despite pockets of improved communications, there is still a great deal more that can be done in this area. The Authority in recognizing the need for on-going and regular dialogue is reaching out more. However, it could still be more proactive and accessible in this regard. Perhaps we have taken the first steps in overcoming this distrust. This past weekend, Council members participated in a half day retreat with Authority Board members. It was a healthy and productive first step that I believe can make a difference in the District's financial recovery efforts.

Review and Approval of Contracts and Legislation:

The Council, to date has not experienced any problems with regard to the Authority's review of contracts. However, the Mayor and/or City Administrator may have a different view, with respect to the Authority's review of contracts. The Council recognizes that serious problems exist with the District's procurement function, and welcomes more Authority scrutiny and oversight in this area. It is my hope and recommendation that the Authority maximizes utilization of the CFO and Inspector General in this regard. It is clear that procurement represents a solid opportunity to generate substantial savings.

In the area of the review of legislation, I would like to offer several observations. Section 203 (a) of the Authority legislation provides that the Authority is to review Council acts to determine whether

they are consistent with the applicable financial plan and budget. It is our view that the Authority should refrain from exceeding its power to review Council legislation as intended by congress. For example, the Authority indicated its desire to disapprove an act of the Council, which we believe had no fiscal impact, but had only the purpose of setting out the membership qualifications of the Board of Real Property Appeals and Assessments. We were advised by Authority staff that they were about to recommend rejection of the legislation, because of concern that the Mayor would have too much discretion in making appointments. The council agreed to change the legislation to avoid a disapproval of the Act that could only have had a policy basis and therefore outside of the Authority's power. The Act was not inconsistent with the Financial Plan and Budget.

Role of CFO and Inspector General:

In terms of the CFO, we have been working to establish a healthy

and effective relationship, consistent with the FRMA legislation. Being charged with serving as the operating arm of the Authority within the government has placed many financial reporting and management requirements on the CFO. As a result, the CFO may view Council requests for direct interaction and information as burdensome. However, there is not much we can do about the demands that are placed on this position. The Council's information needs will still have to be met.

With respect to the I.G., my primary interest and concern centers around the I.G.'s development of an audit plan. We have not yet seen nor heard of such a plan being prepared. I Would like to take advantage of this opportunity to state for the record, that the council is interested in not only seeing such a plan, but also is interested in having input in its development.

The I.G., as intended by the Authority legislation is to play a critical role in the financial recovery process. I am eager to see the I.G. engage more in assessing the District's compliance with procurement rules and regulations, as well as examining and ensuring that proper controls are in place. This desire holds true for all City spending.

Budget Making:

My comments regarding the Authority and the FRMA legislation in terms of budget making center around the Council's role, the Authority's management assistance role, and timing issues. As we have seen with both the 96 and 97 Plans, the legislation has created a budget making schedule, which creates a great deal of overlap in the development, review and approval of budgets. This works counter to the goal of producing budgets that exemplify the quality and accuracy we all desire. It does not allow for

meaningful dialogue and interaction between the various participants.

As we discussed with the Authority on this past Sunday, it could better serve the budget making process by engaging in more consistent collaboration, which should include both the Mayor and Council. The current process is somewhat disjointed. In such tight time frames all parties must be proactive, as well as accessible to one another.

Last September, I, the Mayor, and Chairman Brimmer had the opportunity to testify before Mr. Walsh's Subcommittee on the FY 1996 budget. At that hearing, Mr. Walsh congratulated the Council, the Mayor, and the Authority for collaborating on a document that all parties were in agreement on. We were all happy and pleased with the fact that we had proven that all the

institutions involved could in fact work together. However, several days later, the rules were changed, and Mr. Walsh directed the Authority to go back to the drawing board and do it again. The rules of the game had been changed, and the Authority was asked to initiate further cuts. Although Chairman Brimmer defended what the Council, the Mayor and Authority had been able to jointly agree on, his plea to Mr. Walsh fell on deaf ears. Chairman Brimmer stated that further cuts would produce devastating impacts on the District and its ability to deliver services. However, he would comply with the directive. This was of grave concern to the District, because in believing that the Authority was acting responsibly, Mr. Walsh and his Subcommittee did not back the Authority up. This proved to be disheartening, in that we showed cooperation, and a team approach, which meant very little to Mr. Walsh. The bottom-line message that I would like to convey in this regard is that when a clear solid effort has been made to

adhere to the expectations of the Congress, the Congress should not change the rules of the game, mid-stream. When it does this, it breeds distrust. This is not helpful to relationship building, nor our financial recovery efforts.

A concern specific to the Authority, is its apparent intrusion into policy making, which even has an element of politics. Just recently, in its review of our FY 96 Supplemental Budget and Plan, the Authority reversed several Council cost reduction actions, which in its reversal restored these cuts in a manner that increased their original costs. Example #1 deals with the Authority's increase of the Advisory Neighborhood Commissions (ANC) budget by $78,000. Although this is not a significant amount of money, raising the ANC's overall budget, not at the request of either the Mayor or Council is clearly a political/policy move on the part of the Authority. The Authority unilaterally made

a policy decision in this case that a non service delivery program of the District should be funded at a higher level. this decision has no relationship to the City's financial recovery efforts. Although the Authority has admitted that this was a mistake on its part, it is important that we point it out as an example that shows the need for the Authority to be vigilant in exercising restraint with regard to its vast powers.

Example #2 has to do with the Authority's restoration of full and additional funding of the Summer Youth Employment Program. The Council originally reduced funding of the Program to $3 million. The Mayor vetoed this action, restoring the program to full funding. The Council then over-rode the Mayor's veto. However, the Authority upon its review of the 96 Supplemental not only restored funding to the Mayor's level, it added an additional $3 million. Once again, this represents the Authority delving in policy

matters of a non financial recovery nature. As I stated earlier, the Authority must exercise more restraint in cases such as this, where you have a veto and veto over-ride situation.

The Authority's dabbling in policy matters of a non-financial nature, which also border being political, diminishes their credibility, and does not foster good relations. Despite the District's financial condition,we have been elected by the citizens of this City to make these policy decisions. If and when these decisions have fiscal implications, the Authority has a right to question and recommend. However, until such time, it must refrain from making policy, acting in a manner indicative of an elective body.

Conclusion:

In conclusion, the very nature of the District's relationship with the

Federal government, and as a result its relationship with surrounding jurisdictions makes this a non-typical financial oversight authority experience. Nevertheless, I believe that all parties involved, to date, have experienced growing or adjustment pains. However, I am optimistic that this new relationship structure will work and the District will reassert itself as a fiscally well run City. We will restore the confidence of the citizens of the District, the District's business community, and the confidence of the financial markets.

Finally, I offer the following recommendations, which, if implemented, can greatly enhance relations, as well as help to facilitate the District's financial recovery. We have shared these recommendations with the Authority, and are hopeful that it will accept them.

Recommendations

1. Improve information sharing staff-to-staff and Board-to-Council.

2. Structure public hearing process so that adequate notice is provided, as well as an opportunity for regular and meaningful Local government participation(Council/Mayor)

3. With regard to the review of legislation, the Authority should stick to its Congressional charge and not involve itself in matters of a policy nature and clearly do not impact the financial plan and budget.

4. Effectuate an intergovernmental operating agreement, between the Authority, Executive and Council, consistent with what was done in Philadelphia.

5. Authority should review legislation more expeditiously and rely less on numerous extensions of the seven day review period.

6. Better utilize the CFO and I.G. in the review and approval of contracts.

7. Further clarify the role of CFO and I.G. with regard to their interaction and reporting responsibilities to the council.

8. The Congress and Authority should revisit the budget and financial plan approval time-line set forth in the Legislation, with an eye towards reducing anxiety, and timing overlap

issues. This would allow more time for collaboration, analysis and preparation.

9. The Authority should be more accessible and proactive in involving both the Council and Mayor in its preliminary and post budget making activities. Each contact with the Authority is always of a formal nature.

10. The Authority has been in existence for nine months now, and should begin to focus on the management assistance component of its mission.

11. The Authority needs to advocate more on the District's behalf. Particularly with the Congress, in light of the District's need to address the many structural deficiencies, which stem from the District's relationship to the federal government.

In that you will be holding another hearing on March 28th, on the financial condition of the District, I will reserve my commentary on this subject until that time. However, I must express, as I always do, the need for the Authority to better assist the District in terms of serving as an advocate, with regard to addressing the structural deficiencies which are strangling the District. It is clear that we

cannot cut our way out of this financial crisis.

A sagging economy, along with rising healthcare and welfare costs, and revenue lock, make it critical that we address the issue of the unfunded pension liability, and Saint Elizabeths Hospital. We also need the Authority to serve as an advocate in assisting the District with seeking federal changes to Medicaid and AFDC reimbursement relationships. Perhaps the biggest advocacy need is in the area of expanding the District's revenue base, through either Delegate Norton's flat federal income tax proposal, pilots, as well as perhaps a commuter tax.

Chairman Davis, I thank you once again for the opportunity to testify, and am prepared to respond to any questions you might have.

Mr. DAVIS. Thank you very much. Let me start with the questioning. I appreciate both of you coming. I'm going to try to be brief.

Mr. Clarke, let me start with you. We are going to be considering tax reduction for the city. How in the world can I support tax reduction for the city when you're talking about a commuter tax for the suburbs?

Let's get with the program. We've moved beyond that. The Mayor has moved beyond that, the Control Board has moved beyond it, Ms. Norton has moved beyond it. It isn't going to happen.

Just to be really clear about this, this is the Nation's Capital. It's not the suburban capital, and I think if we want to address the request of more money, we can do that through the Federal payment. That's the appropriate way. But we need to just get off this bit altogether if we're going to work in a cooperative manner. I just want to make that comment.

Mr. CLARKE. I appreciate it, and I know you would like that, because I guess this has got wider circulation than just here, but, Congressman Davis, there hasn't been a bill introduced on the Federal payment. There hasn't been any motion through this committee on the Federal payment. There hasn't been anything with respect to that being done. It is an option out there.

Mr. DAVIS. Mr. Clarke, we're having trouble just getting the basic Federal payment through right now, but I think that is the appropriate route over the long term. There hasn't been a bill introduced on the commuter tax.

Mr. CLARKE. Well, all right. But I'm saying I want my Board up here arguing that case, too.

Mr. DAVIS. All right.

Mr. CLARKE. And that's not the only thing we've presented to you, Congressman.

Mr. DAVIS. Let me ask you another question.

Mr. CLARKE. All right.

Mr. DAVIS. Reading the paper this morning on this UDC protest—and sometimes the paper gets these things wrong, so I wanted you to have a chance to see if they misquoted. The paper stated that you were sitting down in the middle of Connecticut Avenue last night with the students as a show of solidarity, saying that "We are dealing with an unjust situation." Is this the chairman of the City Council doing that?

Mr. CLARKE. I went up to address the students up there, and they asked me to sit down.

Mr. DAVIS. Where? In the middle of Connecticut Avenue?

Mr. CLARKE. Well, they had a—what is it—a satchel. You know, somebody had a satchel, and, "Sit down," and so I just sat down. I wasn't showing a sign of solidarity. They said, "Would you sit down?" and I sat down, and got tired real quick, because I'm pretty old, and got back up again.

I did not say that as a point of solidarity. I went up there to talk to the students about commending them, frankly, for exercising of their first amendment rights—I did do that—but also trying to explain to them—and did, in fact, explain to them—that their problems were not with the Control Board.

Mr. DAVIS. You don't think first amendment rights include blocking traffic, do you?

Mr. CLARKE. I wasn't blocking traffic, sir.

Mr. DAVIS. I'm asking you, do you think it does?

Mr. CLARKE. First amendment? Not necessarily. I mean under certain circumstances the Supreme Court has said yes. But no, I was not addressing that, and I wasn't blocking traffic. The police were blocking traffic.

Mr. DAVIS. OK. So you weren't sitting in the middle of the road? The paper was wrong; I'm just glad, really.

Mr. CLARKE. No.

Mr. DAVIS. So you weren't sitting in the middle of the street?

Mr. CLARKE. I wasn't blocking traffic. I know that.

Mr. DAVIS. Well, there wasn't any traffic at that point. [Laughter.]

Mr. CLARKE. No, sir, there wasn't any traffic.

Mr. DAVIS. I think they had been detoured. I think the police were in front of you. Well, I don't need to say anymore, and I think you have to ultimately be accountable to your constituents that send you there. But I think it's a sad state.

Mr. CLARKE. Well, then, since you brought it up, Congressman, then I'm going to respond.

Mr. DAVIS. Let me just finish.

Mr. CLARKE. I'll let you finish.

Mr. DAVIS. I mean I think it's really sad when your political leaders are reduced to sitting in and protesting when you have every right to appear before this committee, and talk to the Control Board directly. What we're trying to do, is to be all on the same team together.

We have differences; the Mayor and I have differences; Ms. Norton and I have differences; but we are sitting here, trying to work together in a very complicated situation on the Hill, where we have members from both parties holding up the payment and everything else. We're just trying to all work together.

I can see the two of you didn't coordinate your statements today before you came up. We're trying here to get everybody working together. That's the purpose of these hearings. I'll let you respond if you can add anything.

Mr. CLARKE. Yes, I would like to. I would like to go a little bit further with respect to, we all have to work together, not only in terms of governance and the respect of this community.

The young people up at the University were challenged with some unfortunate, erroneous rumors that the whole University was going to be closed down, and I went up to them about 9:30 last night. I went up and talked with them. And yes, they did ask me to sit down right where they were. At that point, it wasn't blocking traffic—that kind of thing—and I did. I guess the Washington Post got hold of that.

As a matter of fact, the Post reporter was up there, and he told me, he said, "I've already filed for the deadline. I've already passed my deadline." I just sat down there, and I did talk about that. So the Post reflects that, and here comes the Congressman, saying, OK, I'm being irresponsible with respect to that.

But I have to go and meet with my people, too. Part of what I was trying to tell those young people was that we've got serious budget problems and that we're all having to endure these problems right here in our city and that the Council had made some cuts.

We even cut the University of the District of Columbia. We cut it by $2 million, the higher education portion, ourselves. We did that, and I told them that. I told them that we had to do that.

I also told them that, under my analysis of what the Board had charged the CFO with, he did not necessarily have to apply the 10 percent restriction unless he found that they were overspending at a rate by which they would go beyond the allocation for this year. I explained that there to these young people to try to help them.

We have to deal with our people, too, Congressman. It's not just a question of dealing with the Congress and the Board. We have to deal with our people, and we have to tell our people what the hard tasks are, and so what if we sit down with them when they're sitting down, and they feel a little bit better about that. I defend that.

Mr. DAVIS. Thank you. I appreciate it. I mean I know they asked the Mayor to sit down, and he stayed on his feet and he acted like a leader in this. We can agree or disagree in the final outcome, but when I read this today, I was appalled.

Let me ask the Mayor. Mr. Mayor, I asked the Control Board earlier how they felt the relations were working, and you heard every member respond in turn that they thought things were getting better, and frankly gave a lot of praise for your Transformation Plan. You touched on this in your opening remarks. How do you feel it's going at this point?

Mr. BARRY. Mr. Chairman, as I said earlier, I think the relationship is getting better. It did get off to a rocky start at the beginning.

And also—I've said this to the Board at our retreat—that I had gotten the impression from department heads and other people who work for the executive branch that, initially, there were some staff people whose attitude was one of "gotcha" and embarrassment, as opposed to helping. I see that has changed tremendously, where there is that kind of cooperation.

We still need to have a much more involved discussion about the staff relationship. I think we're getting there. There was a time when staff would show up in various agencies, and Mr. Rogers nor myself knew what they were doing or why they were doing that. We're working on that, too, so we have made tremendous progress in just the communication between the Board and the Mayor and in understanding.

For instance, around this whole issue—and Ms. Norton discovered this in that meeting in her office—there was some view that I had not wanted to be cooperative about this delegation of authority. That had never been brought to my attention. That was just talked about. Mr. Williams hadn't brought it to my attention that he was concerned that way.

There had been no face-to-face discussion with me with members of the Board or the staff. Once we had the discussion and dialog, they discovered, as Ms. Norton discovered, that I wanted to be

helpful and be cooperative. So that's beginning to happen more and more.

We still need to probably talk more. I think division has given us an opportunity to do that. When we were meeting in our retreat, Mr. Harlan, for instance, talked about providing opportunities for success.

And so I think you're going to see that in my State of the District Address—I want to invite you, March 25th at 7:30, Lincoln Theatre—that vision. So once we can agree more on where we want to go, it's much easier to then decide what vehicle that we use to get there. And I guess the bottom line is, it is improving.

On the other hand, what you said was correct. There will be times when I'm going to say to the public, "The Board made this cut. I disagree with it." I disagree with the UDC cut, for instance. I disagree with that cut of $2 million.

And I think, increasingly, as we define what the Board sees as the role of the CFO and the percent of the time he ought to be paying attention to me and paying attention to them, it will probably get better. For instance, I was telling Michael Rogers that, during the budget preparation process, that ought to be a relationship where Mr. Williams and myself have 100 percent attention to me and not the Board.

In the revenue estimating process, that would be the time when there's 100 percent attention to the Board in terms of where you put your energy and put your time. But I think we can work this through even better now as we think about it and work on it. I don't think there's any need for the Congress to provide any clarification here at this point.

Mr. DAVIS. OK. Thank you very much. Let me acknowledge that we had three members of the Council here besides the chairman. We had Hilda Mason here and I saw Councilman Smith and Councilwoman Jarvis. We appreciate your being here with us.

We were going to try to call today our CFO and our new inspector general, but I want to give you appropriate time. We're very compressed, and I apologize, but since we're due to hear you next week, I'll call you first next week and give adequate time for you to comment accordingly. Do you have any questions?

You might want to even revise your testimony a little bit, in light of some of the comments made here today. I appreciate what you're doing. You've got a tough job, wading into this kind of thing. We want to be helpful in every way we can as part of the team, and I'm glad to see, with the Transformation Plan moving on, we now have a blueprint that we can all work off.

There will be changes to that, of course, as we move forward, but it's changing the dialog up here on the Hill among some of the detractors of the city and everything else, Mr. Mayor.

If we can stay on this message, if we can stay on this plan and adhere to it, I think we are going a long way toward creating an atmosphere up here where we can accomplish some of the other things we want to do. I just want to say that, as the chairman of this committee and having talked to a number of my colleagues on my side of the aisle.

Mr. BARRY. Mr. Chairman, let me just make a couple of points before Ms. Norton, and I'm going to continue to talk to the Board

about this. I think it's a mistake to lump the CFO and the inspector general in the same category. What the CFO does is vastly different. It affects this government vastly different than the inspector general.

The inspector general is investigatory—waste, fraud, abuse control, et cetera—and she can go for 3 or 4 or 5, 6 or 8 weeks. If I did not talk to her, it would not have the same kind of impact on the government as a decision to withhold 10 percent of one's budget or a decision to require certain reporting relationships.

So I think, as we talk with the Board, that it's a mistake to put them two together, that the CFO is independent; the IG is independent. The IG ought to be able to work in a certain area and, again, we ought to talk about the differences. The more we talk about how that works, the better off I think they will be.

Mr. DAVIS. Mr. Mayor, let me say I agree with that, and in next week's panel, you and Tony are on the same panel together, and the IG's on a different panel. I think that shows we are working together. You're not supposed to talk to her. She's supposed to be looking around there.

Mr. BARRY. Beg pardon?

Mr. DAVIS. No, no, I'm just teasing.

Mr. BARRY. Oh.

Mr. DAVIS. But she's out there doing investigations, and I don't want you talking to her every day. It's not the way it's supposed to work. Let me now yield to the representative from the city, the ranking minority member.

Ms. NORTON. Thank you, Mr. Chairman. I want to associate myself with those remarks. The whole point, as the Mayor has laid out, is to get a wall between the city and the IG so that the IG would feel that she can go wherever the trail takes her. But the whole point of the CFO and the Mayor is that the job cannot be done unless both of them are doing it in the way contemplated by the statute.

My one question to you, Mr. Mayor, relates to that. First, may I personally thank you for the way in which you personally moved forward that meeting. Before I had time to do virtually anything, you had offered a solution to the problem. That convinces me that this statute can work.

The solution apparently was not one that the CFO and you had had any communication about. I have, as I said in my own statement, written down what those agreements were, but I want everybody to see them before I put them into the record.

Again, I want to thank you and, frankly, everybody in the room, but especially the initiative you took, because once you take that kind of initiative, everybody around you and, for that matter, the Authority staff then sit up and notice that there's problem solving going on and everybody ought to be part of it.

I want to engage in just a little statutory interpretation, because I understand your frustration, and I do believe that if one looks at this statute, the problem you see with budget formulation, that you indicated in your remarks you would like to have changed, doesn't have to be there if, in fact, the CFO and the Mayor operate as the statute contemplates.

Now, first of all, why was the CFO given the kind of authority he has over parts of the budget in the first place? I just want everyone to understand, as a person who had to go back and forth on this particular item time and again, is that the basic theme of the statute, in a real sense, is reflected in the CFO provision, and it comes out of the experience of insolvency and the GAO.

The Congress did not know that the District was insolvent until it ordered the GAO in. This has left a searing impression on the Congress that it did not have the information and the city sunk. And so, in a real sense, everything in this statute is geared to getting information. Again, we have one of the little awkwardnesses here that I think can be straightened out.

Now, over and over again in the statute, the Mayor and the City Council are left with the authority they had before. There are slight differences here and there. For example—Mr. Clarke knows—in approval of some of the Mayor's cabinet, and so forth, there are slight differences. But over and over again, the Mayor and the Council's policymaking authority is kept intact.

That's why I'm concerned about what you say about ANC's, tax commission. I can't imagine what that has to do with the Authority. It seems to me that's straight-out policy. But if one looks at the statute, Mr. Mayor, the statute, when it talks about your authority, says that "The Mayor shall develop and submit," et cetera, "a financial plan and a budget for the District of Columbia." That's exactly what you do now; that's exactly what it says you continue to do.

Now, how does the CFO get in this? It says that "The CFO shall have the following duties"—and I'm quoting—"preparing the financial plan and budget for the use of the Mayor," et cetera.

Now, the way I read that is that he has got whatever you had last year. He has got a format. Nothing's going to change Congress on his authority to say what the revenues are. He comes in and he says, "This is how I see it. This is where I think the thing should go."

You can take that and change it in any way you want to, including turning it upside down, saying, "Well, you fund the Police Department. I say defund the Police Department." I might say, that's an extreme example. [Laughter.]

No, no. I don't see why these two sections cannot be made compatible, since the chief thing he's responsible for is seeing that you do not formulate a budget that overrides the assessment of revenues that come from the CFO and only that purpose. So I don't understand why this can't work.

Mr. BARRY. Ms. Norton, there are several things that ought to be pointed out here, that all of the budget information, all of the expenditure trends—by object class, by responsibility centers, by control centers—all that information is either in the Controller's Office or the Budget Office, which means if I want to go in a different direction, I have to have the information to do so.

Now, we've not had that much of a problem. I'm saying that it is possible, though, that I won't have the correct information, and therefore I'll make a decision that seems kind of crazy. That's the budget preparation part of it.

The other part of it—and I hope it has been corrected—that during the 1997 budget process there was some discussion in the public arena by maybe the staff or one or more of the Board members saying, "If the Mayor doesn't send us a budget, we're going to ask Mr. Williams to send us one." Now that is wrong to say. "If he doesn't do it, we're going to ask Mr. Williams to send one." That creates an atmosphere, not of cooperation, but of confrontation.

So I think it's a matter of the information being there and the frustration of it and also the fact that, without getting into any kind of internal timeframes, it is not as easy to get a schedule that one keeps when there is this conflict and tension between the Board—what they want and what I want.

Well, we're going to work it through. I'm just saying, if I had my druthers—and we still may want to look at it in the future—that the Mayor needs to have a budget preparation team that he or she has absolute control over.

Ms. NORTON. But they're not going to accept—Congress will not accept, and the Authority by statute cannot accept, any estimate of revenues except what comes from the CFO.

Mr. BARRY. Ms. Norton, may I finish? I said earlier, I agree 1,000 percent that the revenue estimates ought to be in the hands of the CFO, and I can't do anything about it, don't want to do anything about—maybe have a discussion with him about it before he sends it over, but I don't want to change that. I don't want to change the budget execution.

That is to make sure, once the budget is adopted, that the controller function and the other functions of budget execution are adhered to make sure that these departments don't overspend their budget. So I separate out budget preparation from revenue estimation.

Mr. Williams can say to me, "We have $5 billion. Here are my recommendations on how you ought to spend the $5 billion," and we go back and forth on it, and I say, "Well, here's what I'm going to send to the Council."

And the other problem that's not a problem at this point, but it may become one—and it has gotten close to that sometimes—if I make a policy decision about, say, take the Police Department, that we're going to fund them at 3,800 positions, and it falls within the revenue estimate, I would hope that the CFO would support that policy, as opposed to, "I don't agree with that policy," even though it doesn't have any financial implication that busts the budget. So that way, you get torn between what he supports and what I support.

Ms. NORTON. I'm sure that those are things we can work out, because, obviously, the statute contemplates that the policy decisions—you're right—will be made by you and the Council and only you and the Council, and the Board and the Authority and the CFO are beholden to your policy choices. But these are things, again, that I think can be worked out.

I think, in terms of having access to the proper staff in your own budget preparation, I think that can be worked out, too, with an understanding and agreement of the kind we've begun already to reach. I just want to move on to Mr. Clarke.

Mr. BARRY. Let me again reemphasize that if Mr. Williams—well, let's not personalize it—if the CFO says we have $5 billion and I want to send a budget over to the Council that has $5.3 billion, is the proper role of the CFO to say, "No, that doesn't meet revenue estimates. That doesn't do that"?

That goes back to the policy decision. If I make a policy decision to fund something, then I don't want people saying, "Well, we can ask the CFO his views about it," and they're going to be different on a policy level there.

Ms. NORTON. Understood.

Mr. BARRY. That's very frustrating.

Ms. NORTON. And I think we can work on that, and I think we can straighten it out. Those are the kinds of things I think we can straighten out, assuming that has even occurred.

Mr. Clarke, first let me say how much I appreciate your tax revision notion for DC taxes, because it will help me in what I'm doing for tax reduction for DC, although I think we may need to do some things. If this bill goes to the floor as leadership seems now to contemplate, we may want to do some things, not to lower taxes immediately, but to indicate where you all think taxes are going or might be reformed.

Mr. CLARKE. Well, I'm working on it. As a matter of fact, this morning, when I came here—last night I was working on a piece just to do that, recognizing that you were about to initiate some efforts up here to do that.

Ms. NORTON. Appreciate that.

Mr. CLARKE. I hope you find it attractive.

Ms. NORTON. I appreciate the work you all are doing on that.

Mr. CLARKE. Yes.

Ms. NORTON. Let me also say, the items you mentioned were, I think, the realistic places to look for revenue. I regard—the chairman ought to just be calm—I regard commuter tax as a throwaway—that is to say if we get something else to take its place.

But when you talk about pension liability—and I know you're working on a bill—and when you talk about the Federal payment formula, there is bipartisan agreement on both of those issues. The only problem is how much on both of those issues. So we're working on the things where we think at least the Congress understands it has an obligation.

I do want to say for the record, no, you did not oppose the Control Board. I consulted with both you and the Mayor. You were not obstructionist in this, and DC was going to have a payless payday. We had to have some way to borrow, and there was nothing of that. You mentioned that.

The Council, at the end of the 4-year period, in effect, will become the Control Board for the District of Columbia, and in a democratic society that's really how it would work. We wouldn't have a Control Board if we weren't insolvent. But the Control Board will go, and it is in checks and balances that the functions of the Control Board will be carried out.

I just want to say that your recommendations are a most extraordinary piece of work, and I'm going to ask the Control Board, the Mayor's office, and everybody to look at it. These are recommenda-

tions that are at the back of the testimony. You mentioned some of them; I won't go down them all.

But some of them are of such common sense that they almost—you almost lay out a way in which this system could work. For example, "Effectuate an intergovernmental operating agreement between the Authority, executive, and Council, consistent with what was done in Philadelphia."

The great lack in Washington is nobody pays any attention to Philadelphia, which has gone through this whole thing. The Authority doesn't pay enough attention to it; the city hasn't paid enough attention to it. Clearly, the Council has.

"Improve information sharing staff-to-staff and Board-to-Council." I'm just reading some of these out. "The Authority should be more accessible and proactive in involving both the Council and Mayor in its preliminary and post budget making activities. Each contact with the Authority is always of a formal nature."

That ain't going to work. That's right. Unless people can sit down in a room before the budget comes in, after the budget comes in, talk it out the way they did in Philadelphia, the contention will continue. Excellent recommendation.

"The Authority has been in existence for 9 months now and should begin to focus on the management assistance component of its mission." Amen. The more I know about District operations, the more I know there is a lot of money down there.

I mean what the Mayor is going to do on Medicaid. I mean when you look at the difference between what Chartered Health charges the District and what welfare recipients pay when they just go to wherever they want to go, you just see dollars coming at you. Anyway, this is a most important kind of beginning blueprint.

In light of that, I don't recall, Mr. Clarke, whether you were or members of your staff were a part of the budget summit this summer.

Mr. CLARKE. Yes, our staff was a part of that.

Ms. NORTON. I would just like to have you, first, and then the Mayor, or perhaps Mr. Rogers, describe how that worked, because that is the one instance in which we saw no contention, no agreement, no hearings, no spitballs, but somehow everybody came out with one document. It was approved by the Council just like that, and almost as quickly by the Authority.

Mr. CLARKE. Well, the staffer who represented the Council is not here. The staffer brought me back the results of that colloquy, and I found, as members of the Council and budget staff, when they get together without the Council members, they can produce some very good recommendations, and they've done that. [Laughter.]

And we've relied upon them. We've relied upon them as a body for what they've done, and that can operate interagency, as well, and it did at that budget summit, and we were very pleased with what came out of it. But there has only been, I think, two times—maybe even only once—that the Mayor and the Council, as a group, met with the Board, as a group, and that was in August. That was in August of last year.

So it's infrequent, unfortunately, when that occurs, but we have urged it. I continue to urge, when I've got the chance to go the Board meetings, to say to the Board—and I expect their minutes,

if they keep minutes, will reflect it—that I continue to urge that budget summits be reinstituted and we go forward. The Council has always been there, and it's a very good idea.

Ms. NORTON. Mr. Rogers.

Mr. ROGERS. Let me say that the budget summits in August worked because there was a will to do so. There was a clarity of mission on the part of the Authority staff, as well as the executive and legislative staff.

In the intervening months, there has been dialog, but the chairman is right. We have not had the kind of discussion that we had in August. I agree with him that it's time to return to that format so that we can get our communications back on track.

Ms. NORTON. The total information sharing that apparently occurred there with agency heads coming in and laying it all out—because it's going to come out anyway—and hammering it out among yourselves and producing a document that the Council felt confident enough in so that it didn't have to spend a lot of time on it, I commend you on that and hope that that model will be taken up in the future.

I thank you, Mr. Chairman.

Mr. DAVIS. Thank you very much. Let me just say in conclusion, Mr. Clarke, that I think your tax review commission idea is very important. I think restructuring the tax code has to be done to keep and attract people, and businesses, to the city. I think it complements some other things we're trying to do here, and I hope you can work with the Mayor along those lines.

Thank you, everybody. Once again, I want to apologize to our chief financial officer and our inspector general. We'll hear from you first next week, as you come forward to present your views at that point and take questions. We'll work with you in the interim.

Next week, we'll have another hearing with the same witnesses on the financial and management status of the city. The hearing will be held at 1 p.m. in room 311 of the Cannon House Office Building. The subcommittee will continue to work with all interested parties in an ongoing effort to resolve the issues raised by these hearings.

Without objection, I'll hold the record open for 30 days. These proceedings are closed.

[Whereupon, at 12:15 p.m., the subcommittee was adjourned.]

PART II—THE CURRENT FINANCIAL CONDITION OF THE DISTRICT OF COLUMBIA

THURSDAY, MARCH 28, 1996

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

The subcommittee met, pursuant to notice, at 12:30 p.m., in room 311, Cannon House Office Building, Hon. Thomas Davis (chairman of the subcommittee) presiding.

Present: Representatives Gutknecht, McHugh, Holmes-Norton, and Collins.

Staff present: Ron Hamm, staff director; Howard Denis, counsel; Anne Mack, and Roland Gunn, professional staff members; Ellen Brown, clerk; and Cedric Hendricks, and Kim Williams, minority professional staff members.

Mr. DAVIS. Good afternoon. I commend Mr. Williams and Ms. Avant for their patience and diligence. Since this is a continuation of last week's hearing, opening statements will be held until we start today's hearing.

At this time I'd like to call Mr. Williams and Ms. Avant to testify. As you know, it's the policy of this committee that all witnesses be sworn before testifying. If you'd rise with me and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. Thank you. You can be seated. The subcommittee will carefully review any written statements you care to submit.

Please permit me to make these observations prior to your testimony. The Control Board law makes it clear that both the chief financial officer and the inspector general are organic parts of the home rule government in the District of Columbia.

These are permanent positions and will exist after the Control Board phase remains dormant. They must, therefore, be responsible to other permanent entities.

While they're not made fully independent, both the CFO and the IG were given significant zones of independence. The CFO and the IG have a special relationship to the Authority.

Specific areas of joint cooperation within the Control Board were carefully crafted. For example, during a control year, only the Control Board can dismiss the CFO and the IG.

Public Law 104–8 listed specific reporting and coordinating activities for the CFO and the IG with the Control Board and with each other.

For example, the IG must coordinate the audit program with the CFO so that their activities to implement and improve internal controls are compatible.

Mr. Williams, you were appointed CFO late last October. It's your responsibility to supervise the fiscal responsibilities of the city.

Your duties include tax collection and assessments, bill-paying, contract approval, allocating available money in compliance with appropriations and ensuring that the budget is not exceeded.

With the Budget Office under your control, you have to be responsible and responsive to the Mayor as he prepares the budget so that he can make the policy decisions on programs with full information on the costs and benefits of all options.

Much of your job entails working closely with the Mayor, the IG, the Control Board and the city administrator to identify problems and work together and find and implement solutions.

Your job has a great deal of power and responsibility, but of course, you're not the lone ranger. You can't and aren't expected to save the city all by yourself.

Ms. Avant, this is the first time you're testifying before us since your appointment. Welcome aboard. As I mentioned at last week's hearing, unlike the CFO, you are not expected to consult with the Mayor on a regular basis.

In fact, if you did, you'd not be properly performing your job. Our goal in revising the Office of Inspector General for the District was to ensure that while the IG would remain an organic part of the District government you would have the independence necessary to carry out the functions assigned.

Those functions are, essentially, twofold. You must conduct financial and management audits of the District government in order to discover weaknesses and failings and to assist in reforming the government itself.

Also, you're charged with the very important task of investigating waste, fraud and abuse within the government and rooting it out.

Congress gave you extraordinary independence in your budget and the power to report directly to the Justice Department.

The example of a few prosecutions could go a long way toward convincing any remaining doubters that business as usual in the District of Columbia is over.

Your role in helping us to reform the District government is therefore enhanced by your duties as chief investigator.

I look forward to learning your own view of your role on independence. We'll now hear from Mr. Williams, followed by Ms. Avant. Thank you.

STATEMENTS OF ANTHONY WILLIAMS, CHIEF FINANCIAL OFFICER, DISTRICT OF COLUMBIA; AND ANGELA AVANT, INSPECTOR GENERAL, DISTRICT OF COLUMBIA

Mr. WILLIAMS. Mr. Chairman and Congresswoman Norton, please accept this testimony from me on the progress of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

I want to talk about the position of the District CFO and what I believe my mandate to be, my relationship with the Mayor and the challenges I face and the additional help I believe I require.

It is my strongly held conviction that the CFO acts as the operational arm of the Financial Responsibility and Management Assistance Authority serving the District and the Mayor as an autonomous office within the District government. To me, to read otherwise would deny the central thrust of the act that the greatest threat to home rule is the continuation of the status quo.

Now, I've heard the observation that the CFO's responsibilities should be read narrowly to give maximum sweep to home rule, which I take to mean exist and control structures.

I disagree with this observation for two reasons. First, home rule is not synonymous with the existing administration of financial and fiscal activities.

And second, the thrust of the statute to me is not to protect home rule by continuing normal practices but, in fact, to materially alter those procedures as quickly as possible as the last best hope for home rule's continuation and expansion.

As there are different views held by the Mayor and me on my mandate, so there are differences regarding my relationship to his office.

Indeed, I act on the belief that the executive branch for an array of activities were given to the CFO. They were not simply delegated to him within the Mayor's continuing jurisdiction and supervision.

That is, I believe the CFO's job is to both supervise and perform certain functions. Clearly, the CFO has an important control function, but I also believe I have critical support functions as well.

In those areas where my duties are not explicitly enumerated in the act, I operate on the conviction that I continue to play a vital role in supporting the Mayor's initiatives.

Examples of this include his transformation plan, personnel improvements, procurement reform and the like. Where actions are taken with potential negative consequences, good management practice and, indeed, respect for the Mayor personally and his office demand consultation and at least notice.

In general, the CFO has an important role in providing reliable, timely and accurate information and advice to the Mayor.

These are critical obligations that any CFO faces. I believe they are not to be taken lightly, and I say quite candidly we are not where we want to be in providing that information.

Nevertheless, I believe the CFO must carry out a range of duties outlined in the statute. Over the last few months, there have been a number of instances that highlight markedly different views of my authority, and these have been outlined elsewhere, and I need not go into them here.

Notwithstanding all of this, I have always believed and have initially suffered criticism for this, that our financial plan and budget should reflect the Mayor's priorities and vision for the city.

I have attempted to maintain and staunchly support a rightful role for the Mayor as the District's chief executive, while I must make final decisions and take responsibility in the areas within my jurisdiction.

I believe the fiscal year 1997 financial plan and budget was a compelling example of the positive collaboration between a strong independent CFO supporting a considered food and resource policies of the District's Mayor and his vision. I continue to hope that this distinction between finance and program operations and policy has not been lost, and I am confident that the Mayor accepts my supervision over the budget as delineated here and in the statute.

In achieving the goals set forth in the act, I believe we must have in place mechanisms to ensure that the CFO has the resources to do the job.

I believe that the CFO needs a clear acknowledgment of his role in the District government, adequate resources to engineer the District's financial reforms and substantive, I believe, not just formal flexibility in building a strong financial infrastructure.

I've spoken of the need for an understanding of the CFO's mandate, and we have made progress in that progress. Progress on the other two has at times been more attenuated. One particular area of interest has been the application of existing personnel and procurement systems and regulations to the CFO.

While the act has charged the CFO with enormous responsibilities, as an authorizing bill, the act did not give the CFO additional resources in terms of budget. That has been taken care of.

It also left unclear, at least explicitly, the relationship of a CFO to personnel and procurement structures.

Now, one might ask why make these things such a problem? Doesn't every government official deal with cumbersome personnel and procurement rules?

I mean, I come from the Federal Government, so I think I have some ability to talk about cumbersome procurement and personnel rules. So why should I try to be special? Can't agreements be reached and necessary adjustments made out on the margins?

To me, the problem is that all of these discussions can consume valuable time. They may necessitate rejustifications of roles again and again and again, and I believe critical management mass and velocity that are needed to attack conditions that add up to the crisis facing the District is lost. And I believe this is a big problem. From my vantage point, an amendment to the act to address these issues is the best approach. I believe modest adjustments to the statute clarifying the CFO's independence and equipping the CFO with necessary resources and flexibility are certainly warranted, but I'm also a realist, and I appreciate the challenge facing anyone attempting changes to a document that is very much a compromise among intense competing interests.

So what to do? At an administrative level I believe the Mayor can do two fundamental things. I think he can formally recognize by administrative order the independence of the CFO and the CFO's necessary reporting relationship with the controllers, most importantly out in the agencies.

And I believe, too, sponsor an effort by the CFO to work with the Authority leveraging the Authority's special powers to enable the CFO and other agencies, and they need not be financial, to act as performance pilots.

That is to say that in exchange for specified performance goals the financial receives relief on the personnel and the procurement front.

I believe that working together, and I would recommend a Memorandum of Understanding on this point, the Mayor and the Authority can, on a working level, fashion a reliable infrastructure for improved resource management in the District.

In this case and in many cases, the Mayor can play a vital, vigorous role in supporting through the resources of his office the revitalization of the District government and with it the rehabilitation of our private economy.

I believe the CFO should be a part of the District government team but from a standpoint of recognized integrity, independence and probity.

In this posture, I believe, and these circumstances I can best serve the Mayor, the Authority and the purposes of a legislation creating this office.

For me, the final 1997 budget, as I said before, is a testament to a better working relationship within the executive branch.

Indeed, I'm hard pressed to see how this job can be done or will be done without the active support of the administration, but I believe it must be done, and it will be done.

We must all ensure that we continue to play leadership roles in accomplishing it and supporting the purposes of the act. Thank you, Mr. Chairman.

[The prepared statement of Mr. Williams follows:]

TESTIMONY OF DC CFO ANTHONY WILLIAMS
BEFORE THE
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
U.S. HOUSE OF REPRESENTATIVES
MARCH 19, 1996

Mr. Chairman and Members of the Committee, please accept this testimony on the progress of the District of Columbia Financial Responsibility and Management Assistance Act of 1995. (PL 104-8)("The Act"). I want to talk about the position of the District's CFO and the my mandate; my relationship with the Mayor and the progress we have made; and, the challenges I face and additional help I require.

Mandate of the CFO

It is my strongly held conviction that the CFO acts as the operational arm of the Financial Responsibility and Management Assistance Authority (Authority), serving the District as an autonomous office within the District government. To read otherwise would deny the central thrust of FRMAA: that the greatest threat to Home Rule is continuation of the status quo.

I have heard the observation that the CFO's responsibilities should be read narrowly to give maximum sweep to Home Rule, i.e., existing control structures. I disagree with this observation for two reasons. First, Home Rule is not synonymous with the existing administration of financial and fiscal activities. Second, the thrust of the statute is not to protect Home Rule by continuing normal management practices, but in fact to materially alter those procedures as the last best hope for Home Rule's continuation.

Relationship to the Mayor

As there are different views held by the Mayor and me on my mandate, so

there are differences regarding my relationship to his office. Indeed, I act on the belief that the Executive Branch duties for an array of activities were transferred to the CFO. They were not simply delegated to him within the Mayor's continuing jurisdiction and supervision. That is, the CFO's job is to both supervise and perform certain functions.

Clearly the CFO has an important control function, but he has a critical support function has well. In those areas where the CFO's duties are not explicitly enumerated in the act, I operate on the belief that he continues to play a vital role in mission support -- examples of this include reorganization, personnel improvements, and procurement reform. Where actions are taken with potential negative consequences, good management practice, and indeed, respect for the Mayor's office demand consultation and at least notice. In general, the CFO, has an important role in providing reliable, timely, and accurate information and advice to the Mayor. These are critical obligations not to be taken lightly.

Nevertheless, the CFO must carry out a range of duties outlined in the statute. Over the last few months there have been a number of instances that highlight markedly different views of my authority. These include:

- authority to select and execute contracts with bond counsel and financial advisors;
- sole responsibility for determining the validity and amount of disbursements from the treasury -- paying the que of vendors;
- ability to hire the best people and relieve from duty personnel at the other end of the performance spectrum;
- responsibility for the apportionment and allotment of funds; and
- accountability for all phases of the budget cycle;

Notwithstanding all this, I have always believed -- and initially suffered criticism for this -- that our financial plan and budget should reflect the Mayor's priorities and vision for the city. I have attempted to maintain and staunchly support a rightful role for the Mayor as the District's Chief Executive, while I must make final decisions and take responsibility in the areas within my jurisdiction. The Fiscal Year 1997 Financial Plan and Budget was a compelling example of the positive collaboration of a strong, independent CFO supporting the considered, prudent resource policies of District's Mayor. I continue to hope that this distinction between finance and program, operations and policy has not been lost and I am confident that the Mayor accepts my supervision over financial matters delineated in the statute.

Progress Thus Far

My approach to my job has been informed by a simple yet straightforward analysis: a part of the District's problem is inefficiency a poor financial performance; a part of it is equity -- an unfair financial burden it shoulders; and a fundamental element of its problem is the decline of its private economy. In other words, how do we re-establish credibility by dealing with overspending as a condition precedent to addressing the problem of tax revenues, and fundamentally, a slowing economy?

I have established the following three priorities to position the CFO to help ensure success in these three areas. They are:

Priority 1

- gain organizational control of the financial management infrastructure
- institute good resource management throughout the District government
- upgrade financial management systems
- implement performance-based financial planning and reporting

Priority 2

- o Consult in the rightsizing and reinvention, and reorganization of District government departments and agencies to:
  - -- reduce staff
  - -- eliminate duplication / consolidate functions
  - -- streamline purchasing and procurement
  - -- eliminate waste, fraud, and abuse

Priority 3

- o Focus on major spending areas / service delivery problems from a financial perspective, for example:
  - -- human services
  - -- public safety
  - -- education
  - -- other

In the area of my first priority, steps are already underway to improve the District's budget execution and financial management organization and processes. As I have noted above, we are already in the process of rebuilding our financial planning capability and are laying the ground-work for critically needed financial systems improvements. But challenges remain.

Challenges Ahead and Additional Help

In achieving the goals set forth in the Act, we must have in place mechanisms to ensure that the CFO has the resources to do the job. He needs a clear acknowledgement of his role in the District government; adequate resources to engineer the District's financial reforms; and substantive, not just formal, flexibility in building a strong financial infrastructure. I have spoken of the need

for an understanding of the CFO's mandate, and we have made progress in that respect. Progress on the other two has been more attenuated.

At long last my office has received additional funding commensurate with its expanded responsibilities, allowing me to make the necessary short-term additions in my organization and process requisite to a medium to long-term reduction in costs for financial management. While the Act charged the CFO with enormous responsibilities, as an authorizing bill it did not in itself grant him additional resources. These resources have -- until the February action by the Control Board -- held hostage in the long-running stalemate over the District's budget.

The application of existing personnel and procurement systems and regulations to the CFO, and for that matter, our Inspector General presents another daunting problem. Steps should be taken to ensure that the CFO has the latitude to make the quick, decisive steps necessary to rebuild confidence in the District's finances and return to regular operations as quickly as possible.

Now one might ask: why make these things such a problem? Doesn't every government official deal with cumbersome personnel and procurement rules. Why should he be special? Can't an agreements be reached as necessary on necessary adjustments out on the margins? The problem is that all of these discussions consume valuable time; they necessitate re-justification of my role again, and again, and again. Critical management mass and velocity are needed to attack the conditions that add up to the crisis facing the District. Speed and focus are lost as relatively minor transactions instrumental to the District's financial planning process are belabored and delayed -- most of the time unintentionally -- but all of the time -- institutionally.

From my vantage point an amendment of the Act to address these three problems is the best approach. I believe modest adjustments to the statute clarifying the CFO's independence and equipping him with the necessary resources and flexibility are certainly warranted. But I'm also a realist, and appreciate the challenge facing anyone attempting changes to a document that is very much a compromise among intense, competing interests. What to do?

At an administrative level, the Mayor can do two fundamental things: one,

formally recognize by administrative order the independence of the CFO and the CFO's necessary reporting relationship with his subordinates; and two, sponsor the effort by the CFO to work with the Authority, leveraging the Authority's special powers to enable the CFO to act as a performance pilot. Working together -- and I would recommend a memorandum of understanding on this point -- the Mayor and the Authority can, on a working level, fashion a reliable infrastructure for improved resource management in the District.

In this case, and in many cases, the Mayor can play a vital, vigorous role in supporting -- through the resources of his office -- the revitalization of the District government, and with it, the rehabilitation of its private economy. Indeed, the CFO should be part of the District government team, but from a standpoint of recognized integrity, independence, and probity. In this posture, in these circumstances, he can best serve the Mayor, the Authority, and the purposes of the legislation creating his office.

For me, the final FY '97 budget is a testament to a better working relationship with the District's Executive Branch. Indeed, I am hard pressed to see how this job will be done without the active support of the Administration. But it must be done, and it will be done. We must all ensure that we continue to play leadership roles in accomplishing it.

Mr. DAVIS. Thank you very much, Ms. Avant. Thank you for being with us.

Ms. AVANT. Good afternoon, Chairman Davis and members of the House Subcommittee of the District of Columbia. I am pleased to appear before you today to give testimony and my comments regarding the implementation of Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

The act amended the District of Columbia Procurement Practices Act of 1985, the statute creating the Office of the Inspector General, in several important ways.

During the past couple of months, I have had an opportunity to study and apply some of the provisions of the act, and that experience has given rise to several concerns which I will address here today.

I will also discuss my actions taken to date to comply with the act and my plans for the Office of the Inspector General.

The act sought to achieve a significant measure of independence for the inspector general, independence, which is paramount to the discharge of the position's responsibilities.

Webster defines "independence" as a state or quality of being independent. "Independent" is defined as self-relevant, not seeking or relying on help or guidance from others, not contingent upon another person or thing.

Certainly, the act provides for some of these qualities but not all, nor do I believe it was intended to.

Having met all such qualities, the Office of the Inspector General would be a separate entity similar to other independent agencies and authorities of the DC government.

The act does achieve a significant measure of independence for office by having the annual budget free from change by management or key officials of the government and sequestered solely for the use of the office.

But notwithstanding its intent, the act continues OIG's existence as part of the executive branch of the District government, thus requiring compliance with financial, personnel, procurement laws and regulations and procedures governing the activities of subordinate executive branch agencies.

This issue has resulted in some confusion as to the limits of the inspector general's independence and given rise to a number of basic operational issues which have been an impediment to my ability to organize the office required by the act.

Further, given the well-known problems in the District's procurement system, OIG's full compliance with existing procurement laws will further delay the acquisition of needed equipment and supplies.

Similar issues exist with respect to personnel/payroll functions. However, I must state that while the use, modified in some form, of existing systems is not optimal, establishment or use of other mechanisms does result in additional costs not previously contemplated.

The real issue, however, should not focus on whether or not OIG should use the existing District of Columbia personnel, payroll, and procurement systems.

The issue is the flexibility and functionality and ability of those systems to meet the needs of employees in the 1990's and beyond.

The OIG must have the power and authority to hire qualified, competent personnel at competitive rates and terminate employees who are not performing in accordance with established standards. The District's personnel laws and regulations make this process cumbersome and inefficient at best.

Further, we are all aware of the well publicized issues again regarding the procurement system. OIG is, however, looking forward to assisting with the improvement of these areas, and I will discuss our plans further during part two of this hearing.

Until then, I have been working diligently with the CFO, the Director of the Office of Personnel and the Control Board to develop lawful ways and means to cut through the obstacles, and progress is being made.

However, I have been hampered by the act's lack of clarity in these areas and the lack of a set-aside amount of funds or budget to establish the office.

Another very important aspect of the act is its failure to include any enforcement mechanisms whereby there are consequences to those individuals and departments who do not implement recommendations of OIG absent logical, well documented reasons.

At present, the recommendations of OIG are only as strong as the agency and program manager's resolve to implement them.

While I recognize Federal IGs similarly lack an enforcement mechanism, consideration should be given to establishing mechanisms whereby implementation of the office's recommendations is assured or justification provided and agreed to for lack of action.

In addition, there is another area of the act for which I seek to have clarified. It relates to short-term advances for seasonal cash-flow.

I suggest that it is more efficient if either the Control Board or the inspector general, but not both organizations, provide the certification required by the act to avoid duplication of effort and the potential unnecessary expenditure of resources.

Due to the short time in which I have had to apply the provisions of the act, this is not intended to be an exhaustive analysis of the provisions thereof.

However, as I become more experienced in applying the act, I anticipate there may be other concerns which become apparent. In that event, I will, of course, expeditiously transmit those problems or suggestions and comments for your review and consideration.

As I stated earlier, the act sets forth a number of requirements for the Office of Inspector General. I broadly define them as follows: Responsibility for investigations of fraud, waste and abuse and responsibility for the preparation and execution of the annual internal audit of the District's government operations pursuant to section 302(A)(2)(1).

In order to comply with the requirements of the act, I have taken a number of broad and specific initiatives. I believe these initiatives will serve us well in ensuring that we have an Office of the Inspector General staffed with competent, independent personnel, and such personnel and the services they provide will be viewed as

value-added, objective, independent and a mechanism which deters the occurrences and instances of fraud, waste and abuse.

The initiatives are broadly defined in the following categories—Investigations, Audits and Operations.

In the operations area, I have focused on the human and financial resources, organization structure, equipment requirements, et cetera. Each of these functions has been identified and are in process of execution.

In the audit area, I have focused on the development of the internal audit plan for the balance of fiscal year 1996 and fiscal year 1997, an 18-month plan, ensuring the performance of meaningful audit work flow during this period of reorganization.

My activities have included meeting with numerous individuals and groups, internal and external. The meetings were held to establish a rapport to foster cooperative working relationships with the OIG, to enhance or gain an understanding of the government's provisions and to gain insight into issues, risks, concerns and share the OIG's mission and objectives.

The information and insight gained have been utilized to prepare the audit plan. I should note that I have received a high degree of cooperation from the agency directors and staff at this point and the expression of a desire for assistance to correct and identify weaknesses and inefficient processes.

It appears that city workers recognize a need for change, a recognition not previously acknowledged, thus today yielding a work force in great demand for skills and technology to meet the needs of its constituents.

In addition, I have been working with the current external auditors, KPMG Peat Marwick, to wrap up the fiscal 1995 audit and set a course for fiscal 1996.

The office is also currently performing a number of other audits and investigations in areas that have been cited in the audit report or information provided via other sources.

I've also met with other law enforcement and investigative units, again, to begin a working relationship and have found those meetings to be spirited and an intent to work together established.

In support of the requirements and intent of the act and to fulfill my mission and vision of the Office of the Inspector General, a solidly established organization equipped with the necessary resources must exist.

As previously stated, efforts to establish this office are underway. Once completed, I anticipate approximately 35 employees and would be organized into two divisions.

Each will be headed by an assistant inspector general and assisted by a cadre of staff personnel. The office will also include a deputy IG, legal advisor and other support.

I expect to have the office fully staffed and operational by May 31, 1996. In order to staff the office, a number of mechanisms are being employed, including the centralization of 21 agency auditor positions which have also been sanctioned by the Control Board in its February 23d budget action.

Accordingly, I am currently working on a skills assessment and

the appropriate personnel related matters to effect these transfers. Again, I thank you for the opportunity to appear before you today and would be pleased to respond to any questions you may have at this time.

[The prepared statement of Ms. Avant follows:]

ANGELA L. AVANT, CPA, INSPECTOR GENERAL

OF

THE DISTRICT OF COLUMBIA

GOOD AFTERNOON CHAIRMAN DAVIS AND MEMBERS OF THE HOUSE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO GIVE TESTIMONY AND MY COMMENTS REGARDING THE IMPLEMENTATION OF PUBLIC LAW 104-8, THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT OF 1995 (THE ACT). THE ACT AMENDED THE DISTRICT OF COLUMBIA PROCUREMENT PRACTICES ACT OF 1985, THE STATUTE CREATING THE OFFICE OF THE INSPECTOR GENERAL, IN SEVERAL IMPORTANT WAYS. DURING THE PAST COUPLE OF MONTHS I HAVE HAD AN OPPORTUNITY TO STUDY AND APPLY SOME OF THE PROVISIONS OF THE ACT, AND THAT EXPERIENCE HAS GIVEN RISE TO SEVERAL CONCERNS WHICH I WILL ADDRESS TODAY. I WILL ALSO DISCUSS ACTIONS TAKEN TO DATE TO COMPLY WITH THE ACT, AND MY PLANS FOR THE OFFICE OF THE INSPECTOR GENERAL.

THE ACT

THE ACT SOUGHT TO ACHIEVE A SIGNIFICANT MEASURE OF INDEPENDENCE FOR THE INSPECTOR GENERAL. INDEPENDENCE WHICH IS PARAMOUNT TO THE DISCHARGE OF THE POSITION'S

RESPONSIBILITIES. WEBSTER DEFINES INDEPENDENCE AS THE STATE OR QUALITY OF BEING INDEPENDENT, ... INDEPENDENT IS DEFINED AS SELF-RELEVANT, NOT SEEKING OR RELYING ON HELP OR GUIDANCE FROM OTHERS, NOT CONTINGENT UPON ANOTHER PERSON OR THING.

CERTAINLY THE ACT PROVIDES FOR SOME OF THESE QUALITIES, BUT NOT ALL. NOR DO I BELIEVE IT WAS INTENDED TO. HAVING MET ALL SUCH QUALITIES, THE OFFICE OF THE INSPECTOR GENERAL WOULD BE A SEPARATE ENTITY; SIMILAR TO OTHER INDEPENDENT AGENCIES AND AUTHORITIES OF THE D.C. GOVERNMENT.

THE ACT DOES ACHIEVE A SIGNIFICANT MEASURE OF INDEPENDENCE FOR THE OFFICE BY HAVING THE ANNUAL BUDGET FOR THE OFFICE FREE FROM CHANGE BY MANAGEMENT OR KEY OFFICIALS OF THE GOVERNMENT, AND SEQUESTERED SOLELY FOR THE USE OF THE OFFICE. BUT, NOTWITHSTANDING ITS INTENT, THE ACT CONTINUES OIG'S EXISTENCE AS PART OF THE EXECUTIVE BRANCH OF THE DISTRICT GOVERNMENT, THUS REQUIRING COMPLIANCE WITH FINANCIAL, PERSONNEL AND PROCUREMENT LAWS, REGULATIONS AND

PROCEDURES GOVERNING THE ACTIVITIES OF SUBORDINATE EXECUTIVE BRANCH AGENCIES. THIS ISSUE HAS RESULTED IN SOME CONFUSION AS TO THE LIMITS OF THE INSPECTOR GENERAL'S INDEPENDENCE AND GIVEN RISE TO A NUMBER OF BASIC OPERATIONAL ISSUES WHICH HAVE BEEN AN IMPEDIMENT TO MY ABILITY TO ORGANIZE THE OFFICE REQUIRED BY THE ACT. FURTHER, GIVEN THE WELL KNOWN PROBLEMS IN THE DISTRICT'S PROCUREMENT SYSTEM, OIG'S FULL COMPLIANCE WITH EXISTING PROCUREMENT LAWS WILL FURTHER DELAY THE ACQUISITION OF NEEDED EQUIPMENT AND SUPPLIES. SIMILAR ISSUES EXIST WITH RESPECT TO THE PERSONNEL/PAYROLL FUNCTIONS. HOWEVER, I MUST STATE THAT WHILE THE USE (MODIFIED IN SOME FORM) OF EXISTING SYSTEMS IS NOT OPTIMAL, ESTABLISHMENT OR USE OF OTHER MECHANISMS DOES RESULT IN ADDITIONAL COSTS NOT PREVIOUSLY CONTEMPLATED.

THE REAL ISSUE HOWEVER, SHOULD NOT FOCUS ON WHETHER OR NOT OIG SHOULD USE THE EXISTING DISTRICT OF COLUMBIA PERSONNEL/ PAYROLL AND PROCUREMENT SYSTEMS. THE ISSUE IS THE FUNCTIONALITY, FLEXIBILITY AND ABILITY OF THE SYSTEMS TO MEET THE

NEEDS OF EMPLOYMENT IN THE 1990'S AND BEYOND. FOR EXAMPLE, D.C. GOVERNMENT EMPLOYEES ARE CLASSIFIED INTO CATEGORIES: CAREER SERVICE, EXCEPTED SERVICE, AND EXECUTIVE SERVICE. THE EXECUTIVE SERVICE IS EXCLUSIVE TO CERTAIN POSITIONS, EXCEPTED SERVICE IS RESERVED FOR LAWYERS, DOCTORS AND MAYORAL APPOINTEES, AND CAREER SERVICE REPRESENTS THE MAJORITY AND MOST DIFFICULT TO DISCHARGE. THE OIG MUST HAVE THE POWER AND AUTHORITY TO HIRE QUALIFIED, COMPETENT PERSONNEL AT COMPETITIVE RATES, AND TERMINATE EMPLOYEES WHO ARE NOT PERFORMING IN ACCORDANCE WITH ESTABLISHED STANDARDS. THE DISTRICT'S PERSONNEL LAWS AND REGULATIONS MAKE THIS PROCESS CUMBERSOME AND INEFFICIENT, AT BEST. FURTHER, WE ARE ALL AWARE OF THE WELL PUBLICIZED ISSUES REGARDING THE DISTRICT'S PROCUREMENT SYSTEM. OIG IS LOOKING FORWARD TO ASSISTING WITH THE IMPROVEMENT OF THESE AREAS AND I WILL DISCUSS OUR PLANS FURTHER DURING PART II OF THIS HEARING. UNTIL THEN, I HAVE BEEN WORKING DILIGENTLY WITH THE CFO, THE DIRECTOR OF THE OFFICE OF PERSONNEL, AND THE CONTROL BOARD TO DEVELOP LAWFUL WAYS AND MEANS TO CUT THROUGH THE OBSTACLES, AND PROGRESS IS BEING

MADE. HOWEVER, I HAVE BEEN HAMPERED BY THE ACT'S LACK OF CLARITY IN THESE AREAS, AND THE LACK OF A SET-ASIDE OF FUNDS/BUDGET TO ESTABLISH THE OFFICE.

A BUDGET WAS DEVELOPED AND SUBMITTED TO THE APPROPRIATE PARTIES ON 1/24/96 AND APPROVED 2/23/96, 5-1/2 WEEKS AFTER MY ARRIVAL.

ANOTHER VERY IMPORTANT ASPECT OF THE ACT IS ITS FAILURE TO INCLUDE ANY ENFORCEMENT MECHANISM WHEREBY THERE ARE CONSEQUENCES TO THOSE INDIVIDUALS AND DEPARTMENTS WHO DO NOT IMPLEMENT RECOMMENDATIONS OF OIG, ABSENT LOGICAL, WELL DOCUMENTED REASONS. AT PRESENT, THE RECOMMENDATIONS OF OIG ARE ONLY AS STRONG AS THE AGENCY AND PROGRAM MANAGER'S RESOLVE TO IMPLEMENT THEM. WHILE I RECOGNIZE FEDERAL IG'S SIMILARLY LACK SUCH AN ENFORCEMENT MECHANISM, CONSIDERATION SHOULD BE GIVEN TO ESTABLISHING MECHANISMS WHEREBY IMPLEMENTATION OF THE OFFICE OF THE INSPECTOR GENERAL'S RECOMMENDATIONS IS ASSURED OR JUSTIFICATION PROVIDED AND AGREED TO FOR LACK OF ACTION.

IN ADDITION, THERE IS ANOTHER AREA OF THE ACT WHICH I SEEK TO HAVE CLARIFIED. IT RELATES TO SHORT-TERM ADVANCES FOR SEASONAL CASH-FLOW MANAGEMENT. SECTION 204 OF THE ACT AMENDED TITLE IV OF THE DISTRICT OF COLUMBIA REVENUE ACT OF 1939 BY ADDING A NEW SECTION 602. PURSUANT TO SECTION 602(B), WHICH RELATES TO CONDITIONS UNDER WHICH THE SECRETARY OF THE TREASURY WILL MAKE ADVANCES TO THE DISTRICT GOVERNMENT, CERTIFICATIONS TO THE SECRETARY ARE REQUIRED BOTH FROM THE AUTHORITY AND THE INSPECTOR GENERAL, VIA CONTRACT WITH THE EXTERNAL AUDITOR. IT IS SUGGESTED THAT IT IS MORE EFFICIENT IF EITHER, BUT NOT BOTH, THE AUTHORITY AND INSPECTOR GENERAL PROVIDE THE CERTIFICATION TO AVOID DUPLICATION OF EFFORT AND THE POTENTIAL UNNECESSARY EXPENDITURE OF RESOURCES.

DUE TO THE SHORT TIME IN WHICH I HAVE HAD TO APPLY THE PROVISIONS OF THE ACT, THIS IS NOT AN EXHAUSTIVE ANALYSIS OF THE PROVISIONS THEREOF. HOWEVER, AS I BECOME MORE EXPERIENCED IN APPLYING THE ACT, I ANTICIPATE THERE WILL BE OTHER CONCERNS WHICH BECOME APPARENT. IN THAT EVENT, I WILL EXPEDITIOUSLY TRANSMIT TO THIS COMMITTEE ANY PROBLEMS, SUGGESTIONS OR

COMMENTS FOR YOUR REVIEW AND CONSIDERATION.

COMPLIANCE WITH THE ACT

THE ACT SETS FORTH A NUMBER OF REQUIREMENTS FOR THE OIG. I BROADLY DEFINE THEM AS FOLLOWS.

1) RESPONSIBILITY FOR INVESTIGATIONS OF FRAUD, WASTE AND ABUSE,
2) RESPONSIBILITY FOR THE PREPARATIONS AND EXECUTION OF THE ANNUAL INTERNAL AUDIT OF THE DISTRICT GOVERNMENT'S OPERATIONS PURSUANT TO SECTION 302(A)(2)(1),
3) AND, RESPONSIBILITY FOR AN EXTERNAL AUDIT OF THE DISTRICT GOVERNMENT'S COMPREHENSIVE ANNUAL FINANCIAL REPORT.

IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE ACT, I HAVE UNDERTAKEN A NUMBER OF BROAD AND SPECIFIC INITIATIVES. I BELIEVE THESE INITIATIVES WILL SERVE US WELL IN ENSURING THAT WE HAVE AN OFFICE OF THE INSPECTOR GENERAL STAFFED WITH COMPETENT, INDEPENDENT PERSONNEL, AND SUCH PERSONNEL AND THE SERVICES THEY PROVIDE WILL BE VIEWED AS VALUE-ADDED,

OBJECTIVE, INDEPENDENT, AND A MECHANISM WHICH DETERS THE OCCURRENCE AND INSTANCES OF FRAUD, WASTE AND ABUSE.

THE INITIATIVES ARE BROADLY DEFINED IN THE FOLLOWING CATEGORIES.

-- INVESTIGATIONS

-- AUDITS

-- OPERATIONS

IN THE OPERATIONS AREA, I HAVE FOCUSED ON THE HUMAN AND FINANCIAL RESOURCES, ORGANIZATION STRUCTURE, LOCATION, EQUIPMENT REQUIREMENTS OF THE OFFICE, ETC. THE REQUIREMENTS RELATED TO EACH OF THESE FUNCTIONS HAVE BEEN IDENTIFIED AND ARE IN THE PROCESS OF EXECUTION. AS PREVIOUSLY STATED, THE DC PERSONNEL REQUIREMENTS AND ISSUES, AND THE LACK OF FINANCIAL RESOURCES HAVE IMPEDED THIS PROCESS. HOWEVER, SOME CHANGE IS EXPECTED IN THE NEXT SEVERAL WEEKS, WHICH I WILL DISCUSS LATER IN THIS TESTIMONY.

IN THE AUDIT AREA, I HAVE FOCUSED ON THE DEVELOPMENT OF THE INTERNAL AUDIT PLAN FOR THE BALANCE OF FY 1996 AND FY 1997, AN 18-MONTH PLAN, ENSURING THE PERFORMANCE OF MEANINGFUL AUDIT WORKFLOW DURING THIS PERIOD OF REORGANIZATION. (IT SHOULD BE NOTED THAT THE OFFICE IS CURRENTLY STAFFED WITH 2 AUDITORS, 1 INVESTIGATOR, 1 ATTORNEY, AND 2 ADMINISTRATIVE PERSONNEL.)

MY ACTIVITIES HAVE INCLUDED MEETING WITH NUMEROUS INDIVIDUALS, GROUPS, TEAMS, ETC., INTERNAL AND EXTERNAL, AND HAVE INCLUDED THE CONTROL BOARD MEMBERS AND STAFF, KEY GOVERNMENT OFFICIALS, KEY AGENCIES PERSONNEL, PRIVATE GROUPS INTERESTED IN THE CITY, CITY COUNCIL MEMBERS, THE EXTERNAL AUDITORS, AND THE LIST GOES ON. THE MEETINGS WERE HELD TO 1) ESTABLISH A RAPPORT TO FOSTER COOPERATIVE WORKING RELATIONSHIPS WITH THE OIG, 2) ENHANCE/GAIN AN UNDERSTANDING OF THE GOVERNMENT'S OPERATIONS, 3) TO GAIN/ENHANCE INSIGHT INTO ISSUES, RISKS, CONCERNS, AND 4) TO SHARE OIG'S MISSION AND OBJECTIVES. THE INFORMATION AND INSIGHT GAINED ARE BEING UTILIZED TO PREPARE THE AUDIT PLAN DESCRIBED ABOVE. I SHOULD NOTE THAT I HAVE RECEIVED A HIGH DEGREE OF COOPERATION FROM THE AGENCY

DIRECTORS AND STAFF, AND THE EXPRESSION OF A DESIRE FOR ASSISTANCE TO CORRECT AND IDENTIFY WEAKNESSES AND INEFFICIENT PROCESSES DURING MY VISITS. IT APPEARS TO ME THAT CITY WORKERS RECOGNIZE THE NEED FOR CHANGE, A RECOGNITION NOT PREVIOUSLY ACKNOWLEDGED. THUS TODAY, YIELDING A WORKFORCE IN GREAT DEMAND FOR SKILLS AND TECHNOLOGY TO MEET THE NEEDS OF ITS CONSTITUENTS TODAY AND INTO THE FUTURE. I WILL DISCUSS MY ASSESSMENT THUS FAR, AND THE AUDIT PLAN, DURING PART II OF THIS HEARING.

IN ADDITION, I HAVE BEEN WORKING WITH THE CURRENT EXTERNAL AUDITORS - KPMG PEAT MARWICK - TO WRAP UP THE FY 1995 AUDIT, AND NEGOTIATE A CONTRACT FOR THE FY 1996 AUDIT. I ANTICIPATE COMPLETION OF THESE TASKS BY APRIL 15, 1996.

IN ADDITION, THE OFFICE IS CURRENTLY PERFORMING AN AUDIT OF THE MANUAL CHECKS ISSUED BY THE DISTRICT GOVERNMENT DURING FY 1995. THIS AREA WAS CITED AS A MATERIAL WEAKNESS IN THE FY 1995 AUDIT REPORT OF KPMG PEAT MARWICK AND HAS THE POTENTIAL FOR THE IDENTIFICATION OF FRAUD, WASTE AND ABUSE. THE AUDIT IS

EXPECTED TO BE COMPLETED IN APPROXIMATELY ONE MONTH.

IN THE AREA OF INVESTIGATIONS, I HAVE FOCUSED ON THE ESTABLISHMENT OF THE INVESTIGATIONS DIVISION OF MY OFFICE, FORMING COLLABORATIVE PARTNERSHIPS WITH LAW ENFORCEMENT AGENCIES, AND WORKFLOW IN THE EXISTING OFFICE.

I HAVE MET WITH THE U.S. ATTORNEY AND HIS REPRESENTATIVES, FBI REPRESENTATIVES, MPD REPRESENTATIVES, ETC. AGAIN, ALL OF THE MEETINGS HAVE BEEN SPIRITED AND AN INTENT TO WORK TOGETHER ESTABLISHED.

THE OFFICE HAS SEVERAL INVESTIGATIONS UNDERWAY. THEY INVOLVE EMPLOYEES AND CONTRACTORS, AND ARE IN VARIOUS STAGES OF COMPLETION. I WILL SHARE THE REPORTS ON THESE MATTERS, AS DEEMED APPROPRIATE, UPON ISSUANCE OF SUCH REPORTS.

ORGANIZATION OF THE OFFICE OF THE INSPECTOR GENERAL

IN SUPPORT OF THE REQUIREMENTS AND INTENT OF THE ACT, AND TO

FULFILL MY MISSION AND VISION OF THE OFFICE OF THE INSPECTOR GENERAL, A SOLIDLY ESTABLISHED ORGANIZATION EQUIPPED WITH THE NECESSARY RESOURCES MUST EXIST. AS PREVIOUSLY STATED, EFFORTS TO ESTABLISH THIS ORGANIZATION ARE UNDERWAY. ONCE COMPLETED, THIS OFFICE WILL HAVE APPROXIMATELY 35 EMPLOYEES AND, BE ORGANIZED INTO 3 DIVISIONS: 1) INVESTIGATIONS, 2) FINANCIAL AUDITS AND, 3) PROGRAMMATIC AND OPERATIONAL AUDITS. EACH WILL BE HEADED BY AN ASSISTANT INSPECTOR GENERAL AND ASSISTED BY A DIRECTOR/MANAGER, AND A TEAM OF SENIOR AND STAFF PERSONNEL. THE OFFICE WILL ALSO INCLUDE A DEPUTY INSPECTOR GENERAL, LEGAL ADVISOR AND ADMINISTRATIVE SUPPORT. I EXPECT TO HAVE THE OFFICE FULLY STAFFED AND OPERATIONAL BY 5/31/96.

IN ORDER TO STAFF THE OFFICE, A NUMBER OF MECHANISMS ARE BEING EMPLOYED. THEY INCLUDE ASSESSMENTS OF EXISTING PERSONNEL, CENTRALIZATION OF "AGENCY AUDITORS", AND HIRING EXTERNALLY. POTENTIAL EXTERNAL HIRES HAVE BEEN IDENTIFIED USING VARIOUS RESOURCES – MY PERSONAL NETWORK, PROFESSIONAL ORGANIZATIONS, LOCAL PUBLICATIONS, CONTROL BOARD REFERRALS, ETC.

CENTRALIZATION OF THE 21 AGENCY AUDITOR POSITIONS HAS BEEN SANCTIONED BY THE CONTROL BOARD IN ITS 2/23/96 BUDGET ACTION. ACCORDINGLY, I AM CURRENTLY WORKING ON THE SKILLS ASSESSMENT OF AFFECTED PERSONNEL, AND OTHER ACTIONS RELATED TO THE TRANSFER OF THESE POSITIONS AND RELATED FUNDING TO OIG. I DESIRE TO HAVE THIS PROCESS COMPLETED BY APRIL 1. HOWEVER, IT MAY BE DELAYED DUE TO PREVIOUS BUDGET CONSTRAINTS.

I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY, AND WOULD BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE AT THIS TIME.

Mr. DAVIS. Thank you very much. Let me start the questioning with the vice chairman of this committee, the gentleman from Minnesota.

Mr. GUTKNECHT. Thank you, Mr. Chairman. I do have to leave, and I appreciate the opportunity. I do want to ask a couple of quick questions.

First, specifically, Mr. Williams, can you talk a little bit and give us as close as you can estimate what the accumulated operating deficit is right now in the city? Do you know?

Mr. WILLIAMS. The accumulated cash deficit for the city right now, I believe, is on the order of magnitude of $650 million.

Mr. GUTKNECHT. Can you tell us what kind of an impact has it had on your office and your ability to perform your duties?

Mr. WILLIAMS. I think we're getting—I think we're managing our vendor payments. I think it's taking us an enormous amount of time, but I think we're getting where we want to go.

But it's kind of like being on stilts and roller blades. You're getting where you want to go, but you don't look very elegant, and it's kind of awkward. And with the slightest bump you're on your back, and it's very, very difficult to get up.

That's our situation. We have a very, very fragile progress underway in making vendor payments where we have vendors now up to, I think, the middle of January, Medicaid up to the middle of January.

We've isolated capital and Federal payments and I think have them up to the middle of this month, but as this Federal payment, for example, has slowed for want of an appropriation, we begin once again to postpone and defer these obligations which adds to the amount of time we spend on all of this, which adds to our transaction cost; which is to say, an enormous amount of time.

I must spend probably half my day on vendor payment issues, which you could imagine are the very tail end of a financial planning process.

Mr. GUTKNECHT. Mr. Williams, recently, and this subcommittee I think especially has enormous respect for Dr. Brimmer.

Recently, he asked for a significant increase in the Federal payment as well as some kind of a debt repayment loan of some kind.

I don't want to put you in a tough spot, but what's your particular viewpoint on both of those points?

Mr. WILLIAMS. In terms of——

Mr. GUTKNECHT. And if I could just frame that, the reason I say that is I understand that, in some respects, this Congress and more specifically this subcommittee and the Appropriations Subcommittee, in some respects, plays the role of the State legislature for the District of Columbia.

We've seen some side-by-side comparisons in the level of spending for education, for public safety, for streets and so forth.

I have always had a hard time defending the fact that the problem in this area is that we're not spending enough money, that perhaps it's just not being spent appropriately when you compare it side by side with Minneapolis-St. Paul that I'm familiar with back in my home State.

That's why I raised the question. Is the problem that there is not enough money, or is the problem the way the money is being spent?

Mr. WILLIAMS. Well, Mr. Chairman, first I would say that the District really has three problems, from my humble vantage point.

I believe our first problem is an overspending problem and a service delivery problem, and they're, kind of, related, as you can imagine.

Our second problem is a revenue performance problem and the design of our tax base which I think should bear some adjustment. Dr. Brimmer has talked about this. The Mayor has talked about this.

I think the third problem is our fundamental problem. This committee, for example, in its legislative history, focused on three problems simultaneously—a financial problem, a fiscal problem and an economic problem.

I return always again to that economic problem because I believe our fundamental cardinal problem is an economic one; which is to say, our private economy is not growing adequately.

And until we can get our private economy growing at a rate that's sustainable, all we're doing is turning off the lights on the Titanic.

We, basically, have a structural deficit. After you've applied all your expenditure initiatives to reduce expenditures, you've still got at bottom a structural deficit in our budget of 6 percent growth in expenditures, 1 percent growth in revenues.

You can only do so much to bring that down without doing something; that is to say, to address the deficit in terms of revenues or borrowing.

Mr. GUTKNECHT. Well, I don't want to put words in your mouth, but what you seem to be saying is just another infusion of cash may solve the short-term problem, but that may or may not solve the long-term problem. Is that accurate?

Mr. WILLIAMS. I think the District's long-term financial recovery has got to have a number of components. It has got to have very rigorous, stringent expenditure control.

It has got to have a look at revenues. It has got to have, as every other city has had, some infusion of cash. Now, we can argue about that amount.

I think it has also got to have at part of that overall plan an effort to put the District in a competitive position. We've got to be in a competitive position in terms of the metropolitan area, in terms of the global economy, if we're going to get that private economy growing. And then finally, and I forgot this, and this is a huge parenthetical comment, our unfunded pension liability we've got to do something about, because that will kill us at the turn of the century.

Mr. GUTKNECHT. Ms. Avant, would you like to respond to any of that? I'm not sure if it's appropriate if you do or not. I mean, you're welcome to if you like.

Ms. AVANT. I agree with what most of Mr. Williams has said. I think certainly, on a short-term basis, an infusion of cash is probably appropriate, but those are operational issues, and I'll leave it to them to decide what and where and how.

But clearly, cutting, cutting is not going to be the answer to the problem, and on a long-term basis, cash is not the answer as well.

Clearly, there is an economic problem. There is a problem in terms of the employees and accountability, and some of those things I will touch upon in my testimony later.

Mr. GUTKNECHT. Thank you.

Mr. DAVIS. Thank you very much. I recognize now the ranking minority member of this subcommittee, the gentlewoman from Washington, DC.

But before I do that let me just note the presence, if I can, of the gentleman from Prince Georges County, Congressman Wynn. We appreciate you being with us today.

Ms. NORTON. Thank you, Mr. Chairman. I very much appreciate the work that both of these new District of Columbia officials are doing and the extraordinarily serious difficulties under which they are working.

I appreciate, Mr. Williams, that your own view of the statute notwithstanding, you, apparently, appreciate the problems that led to its particular wording.

I do want to, for the record, however, comment on your notion or your interpretation that the CFO office is under the present statute an autonomous office within the District government.

Because as I look at the statute I have to say to you that I see no basis for such an interpretation and that the statute clearly left it to the Mayor and each of you respectively to work out a relationship within very different wording.

For the CFO, the statute says, "It is hereby established within the Executive Branch of the Government of the District of Columbia an Office of the Chief Financial Officer." Then, it says, "Headed by the Chief Financial Officer," an indication of the fact that this office was not contemplated as an autonomous office within the Office of the Mayor.

Very awkward indeed, wouldn't it be, to have an elected Mayor and then to have under him an office that was totally unaccountable to him?

When, in fact, the Congress wanted to do that, it knew how to write that language, and it did so in the section on the inspector general, because that section begins in precisely the same way.

"There is created within the Executive Branch of the Government of the District of Columbia, Office of the Inspector General," in order to make it clear that Congress was doing something very different from what is the usual case whenever offices are created under an elected official, that there was something very different happening with respect to the IG.

It did not stop with the wording that was used for the CFO. Instead, it went on to say that the office should be headed by an inspector general, subject to removal only for cause, for a term of 6 years.

It goes on to say that the IG has a budget that must be submitted with recommendations by the elected officials but without revision.

I point this out only to show that there is a very different intent there, and the sooner we all come to grips with it, as I believe you

certainly have, the less contention there will be among all the parties.

I want to congratulate you, Mr. Williams, for your participation in the meeting in my office, because I believe that there was a very important good faith and productive attempt made to sort out what is admittedly a very difficult relationship and vision by the statute.

And I also want to say for the record that while it is very easy to focus on the CFO as the bane of everybody's existence, it is also very unfair.

The CFO is an instrument, and only an instrument, in the matter of the District's budget. Not even the Control Board has anything to do with the cuts that are underway today.

Those cuts were mandated by the Congress of the United States, essentially from the House, if the truth be told, since the Senate followed the recommendation of the Control Board and mandated no further cuts.

And so in a real sense, everybody ought to understand that the CFO has no autonomy with respect to the Congress of the United States, and those cuts that he is trying to pass directly from the body where you are now sitting.

Again, I want to say that the position the CFO is put in is a very difficult one and to express my own willingness to do whatever I can to facilitate this matter, this office working in a more appropriate way, which you have already begun to demonstrate can occur.

I would like to ask about the cash position of the District of Columbia. We're going to get this money, it seems for sure—where is some wood for me to knock on—this week before Congress goes on recess.

I take it that when Dr. Brimmer testified that we would actually be cash short, meaning not enough cash to run the government, he meant after the money due the District is received.

So I want to ask you, will the District of Columbia have enough cash to pay the kinds of bills that cannot be deferred, like payroll, throughout the remainder of this fiscal year?

Mr. WILLIAMS. No. We will, with the receipt the Federal payment—let's premise this. Let's say we receive the Federal payment this coming week.

We'll begin advance again on vendor payments, Medicaid payments and all these deferred obligations, and we'll, I think, be on, basically, good business terms by this spring only to find this summer that a normal seasonal cash shortage aggravated as it is by the accumulated deficit will put us in the hole and will require some short-term borrowing to get through the remainder of the year.

Ms. NORTON. Do we have enough borrowing authority to get us through the remainder of the year and to pay back the short-term loans at the end of the year?

Mr. WILLIAMS. That's right, Madam Congresswoman. We have authority under, I believe, 601, 602 of the act, between the two of them.

It will require a certification by the Authority that we have a finance plan in place, that we're not borrowing for unauthorized spending and a number of other stipulations.

But I believe, from my posture at least, that we can do it. The only problem with short-term borrowing, necessary as it is, is it puts us right back in a position in October of having to do it again because, presumably, we're borrowing against the remainder of the Federal payments.

So we're just going through this again and again and again and again. So the time you aren't spending on vendor payments, the consequence of all the problems, you're spending on these short-term borrowing transactions and not spending enough time on your actual recovery.

And I totally agree the integration of finance and management in that recovery. Just a commercial point, the financial markets, in my observation, are interested in two things.

They're interested in policy direction. They want to see one leader. They don't want to see 17 different people arguing over policy. They want to see a clear vision and policy direction. I support the Mayor's policy.

They also want to be assured—maybe autonomy isn't the right word—that there is some measured independence in the execution of that policy.

And they find with the proper parameters an independency or flow a very, very healthy device to assure that once policy is in place it's going to be executed, once whatever kind of borrowing is in place it actually will go toward intended purposes.

Ms. NORTON. Well, all I can say is "Amen" to that, Mr. Chairman.

Mr. DAVIS. Thank you. Let me, first of all, say to both of you I appreciate your willing to step up and undertake these jobs. They're tough positions.

Although the statute defines them, nobody has held them before given these rules, so to some extent we're in some unchartered waters.

Mr. Williams, I'm intrigued by your thought that maybe we ought to reach some kind of Memorandum of Understanding which I think resolves this short of a statutory claim and within the framework of that statute.

I think what is important is that you continue to communicate very closely with the Control Board, who can fire you, and the Mayor, who appointed you, because some of your duties require you to work closely with the Mayor.

And yet at the same time this position was created because, in many cases, we weren't getting straight and honest numbers out of the city. We're relying on you to do that.

So I congratulate you on the job so far. As I said before, you're in some unchartered waters, and we want to be as supportive in every way as we can.

Let me ask a couple questions of you, Mr. Williams. As you know, Public Law 104–8 created a statutory position of the CFO. In creating this new permanent position, we took certain powers that had resided with the Mayor and gave them to the CFO along with certain obligations. There is a lengthy list of those responsibilities, and I know you're familiar with them. Could you explain to this subcommittee how you interpret your relationship with the Mayor?

And particularly I'm interested in your view of whether you're an employee of the Mayor and therefore responsible to him, although you have some unique responsibilities and reporting requirements to the Control Board.

Give us the flavor of how you perceive it and how this is evolving at this point. I think you tried to do that in your opening remarks.

Mr. WILLIAMS. I believe that any financial officer really has dual responsibilities. You have an important responsibility to ensure financial integrity, management control.

But you also have a very, very important mission support responsibility, and maybe, in an inexact way, I would, basically, bifurcate my responsibilities to say that I have a responsibility to the Mayor for mission support, to support those legitimate policies of the Mayor, for example, his transformation plan, to see that it is successful.

One very vital responsibility of the CFO to the Mayor is information flow, and information flow right now, I mean, we need to open up the way they opened up the dam on the Colorado River. We need to open up the flow of information to the Mayor because right now it is inadequate.

Now, the Mayor may think that I have this beautiful flow of information and I'm just holding it myself, but there isn't any dial I can turn right now that can get good information.

It's a painstaking process of recreating this information and providing it to him. You can't manage in the blind, and I profoundly respect that need by the Mayor, and that's an important need.

Another important responsibility to the Mayor is to work with him and with the IG to ensure that every agency manager accepts as his or her own the basic fundamental responsibility for good resource management.

It's not the financial managers out in the garage. It's the agency managers taking that responsibility themselves, and only the Mayor can really ultimately lead that call.

On the control side, I believe I do have an important working relationship with the Control Board to see that its policies are set, its recommendations are set, that they're carried out using financial leverage, to see that once a budget is in place that it is properly executed and that those 17 responsibilities given to a CFO in a control year are carried out prudently and judiciously.

So it is a balancing act, but that's the way I try to divide it.

Mr. DAVIS. OK. Would you agree with me that on operational matters the CFO is independent; you don't need the permission or the direction of the Mayor, although you should consult with the Mayor, but on preparing the Mayor's budget and other policy matters that you have to report to the Mayor on that and work with him, making sure that the numbers you give him, for example, are accurate and that what he submits to Congress would meet legal requirements regarding accuracy and completeness? Is that a fair understanding?

Mr. WILLIAMS. No question about it. The budget is such a powerful policy document I think the Mayor's concern, if I can recall his remarks, his concern about losing control of that policy instrument.

I think the 1997 budget shows that I am an adherent of the Mayor's policies as a financial officer. If the Mayor says we want to

have a space program and it's within the budget, I'll give him a financial analysis of a space program, but space program will be in the budget.

Mr. DAVIS. I guess one of the things I think we want to impart with you is the continued need, and I would say this to the Mayor as well, to continue to keep talking to each other as you work through this.

This doesn't do anybody any good to have any of you out there going in your own directions without at least letting the other one know what you're doing.

We've tried to delineate some lines here, and I think we're clear on where you're working to supplement what the Mayor is doing in support and where you have the options and, indeed, the responsibility to be independent as well.

Mr. WILLIAMS. Mr. Chairman, if I could just put in one word, I think there really should be, a CFO should be involved in budget preparation.

We spent an enormous amount of time talking about inputs in organizations. We talk about the schools got this amount and, for example, UDC got this amount, and should they or should they not get this amount.

We don't spend enough time talking about what organizations actually did, what it costs them to accomplish these goals, and only good financial information can really give you that cost information, which I think ultimately will make for better policy by the Mayor and make for better oversight by not only the City Council but the Control Board and this Congress.

Mr. DAVIS. Let me just ask Ms. Avant, it's a maxim that in government personnel is policy? I believe that the work of your office is crucial to the improvement of the culture of the city's work force.

Without a radical transformation of the level of expectation of the employees at every level I think the city's problems with service delivery, responsiveness and accountability can't be solved.

Have you used your authority to organize and staff the IG's office to begin to change the way the District does business? Are you looking at that?

Ms. AVANT. Well, as I stated during my testimony, I clearly attempted to do that, but I've run into difficulties because of how the legislation is written. Certainly, on a going forward basis, and I think we will be able to work out these personnel issues.

I will be using the authority that has been granted under the act to change clearly, first, how my office performs and also have other ideas and plans as a part of the audit plan that, hopefully, will serve to begin to effect some of those changes on a city-wide basis as well.

Mr. DAVIS. Do you think, then, that the performance of your department is hampered by the current personnel and procurement rules of the city? Do you have any problem with those?

Ms. AVANT. Currently, yes. Absolutely, because the existing rules would make it, as I indicated, very difficult to hire people expeditiously. It makes it very difficult to remove people if they're not performing.

Mr. DAVIS. I think originally we contemplated that your office would not be constrained solely within the existing or even future personnel or procurement rules.

Have you talked to the Mayor or the city administrator about making all of your personnel accepted and under your control?

Ms. AVANT. I have, actually, had quite a lengthy meeting not with the Mayor or the city administrator but other people, again using the authority that I have to effect those changes.

And legislation has been sent to the Mayor for signature and is going to be forwarded to the chairman of the City Council, whom I've also spoken with and has agreed that they will sign off on that legislation to make my personnel accepted service.

Mr. DAVIS. OK. Good. Thank you very much. I've got other questions that I may want to submit in writing so as not to take everybody's opportunity here.

I see Miss Collins is here from Michigan. I would just yield to her 5 minutes, if she would like to ask any questions.

Miss COLLINS. Thank you, Mr. Chairman. I'll not ask any questions at this time, but I do ask that my opening statement be submitted for the record.

Mr. DAVIS. Without objection, so ordered.

[The prepared statement of Hon. Barbara Rose Collins follows:]

STATEMENT OF

THE HONORABLE BARBARA-ROSE COLLINS

I want to begin by welcoming today's witnesses and by thanking you, Mr. Chairman, for organizing these most important hearings on the future of the District of Columbia.

During our last meeting, we heard testimony from the Authority, the Mayor and others on the status of the implementation of PL 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995. I was most pleased to hear that during a recent meeting and subsequent retreat, major concerns were addressed and common ground was reached in an effort to restore financial viability to the District of Columbia.

I would like to commend the Authority and the City for

the significant progress they have made in working toward a common goal of fiscal responsibility. However, there is still a lot of work ahead. It will most certainly take the continued cooperation and complete commitment of all involved parties in order to achieve the results we all want to achieve, and that is the best capital city for the taxpaying citizens of Washington, D.C.

To that end, I look forward to hearing from each of you. Thank you.

Ms. NORTON. Mr. Chairman, I would just like to ask two questions based on concerns that have been publicly expressed.

One has to do with Federal money. My office, because I'm the Federal official I suppose, gets calls saying that the District has not released Federal money.

Here I'm talking about 100 percent Federal money, and that money for federally funded programs is not coming forward.

Is that true? And if so, what would be the reason for that?

Mr. WILLIAMS. There are two reasons for that. There used to be three reasons. The third reason used to be that I don't believe we had properly really differentiated Federal from nonFederal cash-flows, and so, basically, were unnecessarily interrupting cash-flow for federally funded programs.

We've now made that distinction, and I think that's no longer a problem. Where you've seen problems, I think they have been for two reasons.

One, the continuing resolution budget level on which we operated over the last quarter was an abnormally low budget level.

There is only so much room under a global budget for funding. There wasn't any room under this continuing recess for carry-over grants or for new Federal grants, and so you saw a loss of Federal funding for those reasons.

Ms. NORTON. But would that be a loss, an actual loss?

Mr. WILLIAMS. At this point it hasn't resulted in a loss of these Federal funds, but I'll put it this way, was certainly an interruption for funding for those programs.

Ms. NORTON. A program like Ryan White, for example. People constantly call my office about Ryan White, and we know that that is one of the great problems of the District.

And they've asked for all kinds of remedies, remove the financial agent, but apparently that money has not been forthcoming.

And they're not talking about the level of funding. At least for some time, Ryan White money simply wasn't coming forward. You'll hear Jim Graham saying, "The District owes us $700,000."

If that is 100 percent federally funded money, even though you may be spending at a lower level, I'm not sure I understand why that money would not be coming through in larger amounts.

Mr. WILLIAMS. Under a global budget, a global budget includes all funds, and the global budget did not allow for new Federal funds.

Global budget under continuing resolution did not allow for new Federal funds or carry-over funds. We've instructed the agencies to load in their budgets now new Federal funds, carry-over Federal funds, and I think we've addressed that problem.

There are still some execution problems in the process in terms of approving obligation that we're ironing out now because of the centralization of the contract review that we've done, but I believe that we've taken care of the budget authority problem.

Ms. NORTON. This is another one of these terrible results from the delay in the Federal payment resulting at your spending at a level even below last year's funding level.

Mr. WILLIAMS. Well, Madam Congresswoman, I think, actually, this is still I think you could lay on the doorstep on Congress. It's

really a result of not having a budget, really, not the Federal payment.

Ms. NORTON. I'm talking about, I'm sorry, the appropriation.

Mr. WILLIAMS. Exactly, not having appropriation. It's very difficult to instill discipline in the agencies and their financial management if they see they don't even have a budget.

Ms. NORTON. Final question, Mr. Williams. What action is being taken so that we don't have unintended explosions, like the threatened cancel of a primary or misunderstanding about whether UDC was going to remain open or not?

How are you going to avoid problems of that kind hitting the public and having to be pulled back and resolved only after the fact?

Mr. WILLIAMS. I think the Mayor recognizes the report relationship of the controllers and the CFO. I meet with the CFOs now on an operational basis every week, and I've been trying to encourage now more and more forcefully to the agency controllers that we've got to have an open flow of communication.

I think what is happening is that instructions are sent out, and rather than getting clarification and getting the final word from this office people are acting or trying to preempt the process, and I think as soon as we can stop that I think the sooner we're going to get around all those issues.

Ms. NORTON. I appreciate that you are going to be having those weekly meetings. We have problems that we could do nothing about.

I think the UDC problems were completely preventable if there had been better communication. I appreciate the steps you're taking. Thank you very much, Mr. Chairman.

Mr. DAVIS. Let me thank you both. We'll be seeing you again, but I appreciate your testimony here today. I think you've added a lot. Keep up the good work.

Ms. AVANT. Thank you.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. DAVIS. I'll close that hearing. I'm going to open up a new hearing now. We're going to now proceed with our regularly scheduled hearing on the financial status of the District of Columbia.

Good afternoon, and welcome once again. I understand the next vote is due about 2 o'clock, so we ought to have time to run through our panels and get the questioning substantially started.

We have made progress during the past year in coming to grips with the fiscal crisis that still threatens and really overwhelms the Nation's Capital.

Last year I said that the greatest threat to home rule does not come from the Congress. The city's financial crisis threatens to undermine every aspect of home rule.

By successfully resolving the crisis, home rule will be enhanced. I also said then that the basic fiscal problem of the city is not lack of money but overspending and poor management.

Everything we have learned since has only reinforced my position. I believe that Congress will only serious consider the revenue option if and when it is convinced that serious and effective steps have been taken to first control and then reduce spending.

If those reductions prove insufficient to revive the District, then it would be appropriate to look at the revenue side.

Before the Mayor or Dr. Brimmer jump out of their chairs, I want to say that the key phrase in my previous sentence is "if spending reductions prove insufficient."

If one considers that the District has a budget deficit of $54 million in 1995 and the crisis will be over when $54 million in further reductions or additional revenues are realized, then obviously, the District does not need additional Federal revenues.

If, on the other hand, the crisis facing the District is substantially more than that—capital program neglect of hundreds of millions of dollars, chronically underfunded operations of the District, such as public safety and corrections which can't continue to be underfunded, court orders and receivers and entitlements which can only be reduced so far—then that case should be made plainly and with specifics.

If the Mayor and/or the Control Board want to begin making that case today, they're more than welcome to do so. If they need more time to put together the case, then we'll address that issue later.

But the time has passed when anyone, including the Control Board, can simply say, "Trust us," or expect Congress to act without a strong presentation of evidence that the District needs additional resources and can only get them from the Federal Treasury.

All Americans benefit from a strong and vibrant Nation's Capital. Residents of the region have a special stake in the vitality of Washington, DC.

The city, working together with the Control Board, the Congress, and the administration has taken the first painful yet crucial steps on the road to recovery. In spite of the pain associated with change, we must continue to move forward.

The purpose of our hearing today is to see where the District actually is and how far along we are on the road to recovery.

It's important for the Members of Congress, their staffs, the city government and perhaps most of all the residents of the District to come to know the exact condition of the city's finances. If we don't understand the full dimension of the problems, we don't have any hope of solving it.

Some of the information we'll hear today is, at first glance, bad news, but upon careful analysis, it's not so much bad news as it is vital information that the city must have and act upon if it's to regain its financial well-being.

This is especially true of the documents associated with the comprehensive annual financial report. The information developed by KPMG Peat Marwick audit team gives the city and the Control Board the information they need to improve the way the city does business.

In addition to the information developed by the fiscal year 1995 audit, I'm deeply concerned about the fiscal impact on the city of the fiscal year 1996 Federal budget crisis.

Not only did the city's own appropriation bill fail to pass, but the city, through absolutely no fault of its own, was caught up in the larger shutdown of the Federal Government.

I'm concerned about the fiscal impact each of these has had on the District. I'm extremely grateful for the long hours of toil that

Chairman Walsh and his staff have invested in trying to pass the District appropriation bill, no easy task in any year in any Congress.

They've done an outstanding job, but it's important for the subcommittee to have answers to questions such as how much the failure to have the full $660 million of the Federal payment on October 1, 1995, cost the city.

In addition to our concern about the District's current financial condition, we're also interested in the projections for fiscal year 1997.

The city is required by Public Law 104–8 to make substantial progress each year between now and fiscal year 1999 toward a balanced budget.

We need to have confidence in the projected level of both the city's revenue and its expenses. We also must be confident that the city has the will and the information to adjust the budget during the year if the original projections turn out to be incorrect.

We all understand that the District's fiscal problems are not unique in kind, though they may be unique in degree. What makes these problems stand out here are the intense interest and connection the people throughout our country have with this city.

Otherwise, the District is trying to work its way out of the same type of difficulties that other great cities have experienced and overcome.

Last year, aided by the General Accounting Office, the subcommittee reviewed past crises in New York City, Cleveland, Philadelphia and Chicago.

All of these great cities at one time had teetered on the brink of default. All found their way back. All the elements must now come together.

The city government, the Authority, the CFO, the IG, Congress and the administration must be on the same team. We must continue the partnership we formed in a bipartisan and, indeed, in a nonpartisan way.

No single entity can solve the problem alone. I'm proud of the responsible way in which this subcommittee and all interested parties have responded to date despite some bumps along the way. It's now more important than ever that we continue and accelerate our efforts.

I now yield to Ms. Norton, the ranking member of the subcommittee, for any statement she'd like to make.

[The prepared statement of Hon. Tom Davis follows:]

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ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

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OPENING STATEMENT
REP. TOM DAVIS

CHAIRMAN, DISTRICT OF COLUMBIA SUBCOMMITTEE
GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

MARCH 28, 1996

OVERSIGHT HEARING ON THE CURRENT FINANCIAL CONDITION OF THE DISTRICT OF COLUMBIA

Good afternoon and welcome. We've made progress during the past year in coming to grips with the fiscal crisis that still threatens to overwhelm the Nation's Capital. Last year I said that the greatest threat to home rule does not come from the Congress. The City's financial crisis threatens to undermine every aspect of home rule. By successfully resolving this crisis, home rule will be enhanced. I also said then that the basic fiscal problem in the City is not lack of money but overspending and poor management. Everything we have learned since has only reinforced my position.

I believe that Congress will only seriously consider the revenue option if it is convinced that serious and effective steps have been taken to first control and then reduce spending. If those reductions prove insufficient to revive the District then it would be appropriate to look at revenues.

Before the Mayor or Dr. Brimmer jump out of their chairs, I want to say that the key phrase in my previous sentence is "if spending reductions prove insufficient." If one considers that the District had a budget deficit of $54 million in 1995 and the crisis will be over when $54 million in further reductions or additional revenues are realized then, obviously, the District does not need additional federal revenues. If, on the other hand, the crisis facing the District is substantially more than that - capital program neglect of hundreds of millions of dollars, chronically under funded operations of the District such as public safety and corrections which cannot continue to be under funded, court orders and receivers, and entitlements which can only be reduced so far - then that case should be made plainly and with specifics.

If the Mayor and or the control board want to begin making that case today they are more than welcome to do so. If they need more time to put together the case then we will address the issue later. But

the time has passed when anyone - including the control board - can simply say "trust us" or expect Congress to act without a strong presentation of evidence that the District needs additional resources and can only get them from the federal Treasury.

All Americans benefit from a strong and vibrant National Capital. Residents of the region have a special stake in the vitality of Washington, D.C. The city, working together with the control board, the Congress, and the Administration, have taken the first painful, yet crucial, steps on the road to recovery. In spite of the pain associated with change, we must continue to move forward.

The purpose of our hearing today is to see where the District actually is and how far along we are on the road to recovery. It is important for the Members of Congress, their staffs, the City government, and perhaps most of all, the residents of the District, to come to know the exact condition of the city's finances. If we don't understand the full dimensions of the problem, we can have no hope of solving it.

Some of the information we will hear today is, at first glance, bad news. But, upon careful analysis, it is not so much bad news, as it is vital information that the City must have and act upon if it is to regain its financial well-being. This is especially true of the documents associated with the Comprehensive Annual Financial Report. The information developed by the KPMG Peat Marwick audit team gives the city and the control board the information they need to improve the way the City does its business.

In addition to the information developed by the FY 1995 audit, I am deeply concerned about the fiscal impact on the City of the FY 1996 federal budget crisis. Not only did the city's own appropriations bill fail to pass; but the city, through absolutely no fault of its own, was caught up in the larger shut-down of the federal government. I am concerned about the fiscal impact each of these has had on the District. I am extremely grateful for the long hours of toil that Chairman Walsh and his staff have invested in trying to pass the DC appropriations bill. They have done a truly outstanding job. But, it is important for the subcommittee to have answers to questions such as, how much the failure to have the full $660 million of the federal payment on October 1, 1995 cost the city.

In addition to our concerns about the District's current financial condition, we are also interested in the projections for FY 1997. The city is required by PL 104-8 to make "substantial progress" each year between now and FY 1999 toward a balanced budget. We need to have confidence in the projected level of both the city's revenue and its expenses. We also must be confident that the city has the will and the information to adjust the budget during the year if the original projections prove to be incorrect.

We all understand that the District's fiscal problems are not unique in kind, though they may be unique in degree. What makes these problems stand out are the intense interest and connection that people throughout our country have with this city. Otherwise, the District is trying to work its way out of the same type of difficulties that other great cities have experienced and overcome. Last year, aided by the General Accounting Office, this Subcommittee reviewed past crises in New York City, Cleveland, Philadelphia, and Chicago. All of these cities at one time had teetered on the brink of default. All found their way back.

All the elements must now come together. The city government, the Authority, the CFO, the IG, Congress and the Administration must be on the same team. We must continue the partnership we have formed in a bipartisan and indeed in a nonpartisan way. No single entity can solve the problem alone. I'm proud of the responsible way in which this Subcommittee and all interested parties have responded to date, despite some bumps along the way. It's now more important than ever that we continue and accelerate our efforts.

Ms. NORTON. Thank you, Chairman Davis. I would like to thank the chairman for preparing this important hearing on the District's finances.

In 1994, the Democratic chairmen then responsible for the District, Representatives Pete Stark and Julian Dixon, asked the GAO to investigate District finances.

The GAO discovered that the District was insolvent. The District was unable to move quickly enough to prevent the loss of its credit.

A financial authority, therefore, become necessary in order for the city to borrow and reorder its finances and management.

As a result of buy-outs beginning in 1994 and spending controls ever since, the District has made considerable progress for which it has received little public credit.

A total of 5,600 positions have been eliminated. Thus, when the Mayor proposes to eliminate 10,000 positions by 1999, it should be remembered that he is already more than halfway there.

In addition, spending has been reduced by almost half a billion dollars. Most jurisdictions which had made such progress would be well on their way to recovery.

There are two reasons why recovery has not yet begun for the District. One relates to the actions of the 104th Congress. The other is caused by the absence of a long-term revenue strategy to match the downsizing approach now in place.

Last year the Congress rushed to set up a Control Board just as we were going on recess because it feared that the District would go down while we were out of town.

As I speak, Congress is rushing to get the remaining Federal payment out before we go on recess for the Mayor has warned that the District could run out of cash while we are out of town.

Why is the District in the same cash short place it was this very time last year? What progress could have been made has been retracted by three gratuitous congressional actions.

They were, one, a national struggle over vouchers for private and religious schools that caused an astonishing and unprecedented 6-month delay in receiving the full Federal payment; two, a week-long shutdown during which the workers were forced out but nevertheless had to be paid; and three, fresh cuts insisted upon by the House despite the objections of the Senate and the financial authority which asked for time to help get a plan in place before further cuts proceeded.

The House demanded and got progress from the District in downsizing, but because of this body's actions the District's progress has failed to register.

I can only hope that the experience has been sufficiently instructive so that in the future, if the House chooses not to help, at least it will do no further harm.

The second reason the District is not yet on the road to recovery is that we have compelled the city to proceed with only half the necessary strategy for recovery.

The District is proceeding with downsizing as I speak. However, every city that has recovered from insolvency has done so because of a balanced strategy of downsizing on the one hand and investment or take-over of some functions by the State on the other.

However, the Congress has not even begun to think through how to continue even its existing obligations, particularly the unfunded pension liability that is almost entirely its debt and a Federal payment formula that would be worthy of the name.

I am working on two bills on these two subjects of primary congressional responsibility and will hope to have this committee's support.

Even these two responsibilities do not fulfill the ultimate obligation of this body to help the District develop a reliable, long-term revenue source the way Pennsylvania, New York, and Ohio did for the cities they brought back from insolvency.

We need to start the thinking and the planning now. Otherwise, we discourage the remaining taxpayers who, seeing no realistic strategy for recovery, may well be inclined to leave, worsening an already desperate situation.

We need to say out loud what most of us already know. A permanently balanced budget in 4 years as required by the financial authority legislation cannot occur unless using the limited downsizing strategy now in place.

In the economic and fiscal climate in this Congress, helping the District find a reliable revenue stream is at least as difficult as helping the District to downsize.

Even if Congress decides that the District must do more before revenue will actually be forthcoming, this body must at least begin to think through this daunting problem now before it is too late to do that thinking.

I will shortly introduce a bill that I hope will begin this process. On April 15th, I will introduce a District of Columbia Economic Recovery Act to afford a substantial Federal tax reduction for DC residents and businesses.

The goal of this tax discount is to retain and attract middle income taxpayers. In essence, the bill seeks to revive the economy of the District the old fashioned way, simply by encouraging people to live in the District so that there are enough of us residing here to pay our own way.

I challenge other Members either to help me on my bill or bring forward their own solutions. I've very pleased at the reception my bill is receiving from the Republican leadership in particular, and I know I will have similar support from my own leadership.

I want to encourage today's witnesses in their extraordinarily difficult efforts now underway. They deserve to know that the Congress, which admonishes them concerning their financial responsibilities, also recognizes its own responsibilities. Thank you, Mr. Chairman.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT
WATER RESOURCES AND
ENVIRONMENT

COMMITTEE ON
GOVERNMENT REFORM AND
OVERSIGHT

SUBCOMMITTEE
RANKING MINORITY MEMBER
DISTRICT OF COLUMBIA

Congress of the United States
House of Representatives
Washington, D.C. 20515

OPENING STATEMENT OF CONGRESSWOMAN ELEANOR HOLMES NORTON AT THE DISTRICT OF COLUMBIA SUBCOMMITTEE HEARING ON THE CURRENT FINANCIAL CONDITION OF THE DISTRICT OF COLUMBIA

March 28, 1996

I thank Chairman Davis for preparing this important hearing on the District's finances. In 1994, the Democratic chairmen then responsible for the District, Representatives Pete Stark and Julian Dixon asked the GAO to investigate District finances. The GAO discovered that the District was insolvent. The District was unable to move quickly enough to prevent the loss of its credit. A Financial Authority therefore became necessary in order for the city to borrow and reorder its finances and management.

As a result of buyouts beginning in 1994 and spending controls ever since, the District has made considerable progress for which it has received little public credit. A total of 5600 positions have been eliminated. Thus, when the Mayor proposes to eliminate 10,000 by 1999, it should be remembered that he is already more than halfway there. In addition, spending has been reduced by almost half a billion dollars.

Most jurisdictions which had made such progress would be well on their way to recovery. There are two reasons why recovery has not yet begun for the District. One relates to the actions of the 104th Congress. The other is caused by the absence of a long-term revenue strategy to match the downsizing approach now in place.

Last year, the Congress rushed to set up a control board just as we were going on recess, because it feared that the District would go down while we were out of town. As I speak, Congress is rushing to get the remaining federal payment out before we go on recess, for the Mayor has warned that the District could run out of cash while we are out of town. Why is the District in the same cash-short place it was last year?

What progress could have been made has been retracted by three gratuitous congressional actions. They were: (1) a national struggle over vouchers for private and religious schools that caused an astonishing and unprecedented six month delay in receiving the full federal payment; (2) a week long shutdown during which the workers forced out nevertheless had to be paid; and (3) fresh cuts insisted upon by the House, despite the objections of the Senate and the Financial Authority which asked for time to help get a plan in place before further cuts proceeded. The

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House demanded and got progress from the District in downsizing, but because of this body's actions, the District's progress has failed to register. I can only hope that the experience has been sufficiently instructive so that in the future if the House chooses not to help, it at least does no harm.

The second reason the District is not yet on the road to recovery is that we have compelled the city to proceed with only half of the necessary strategy for recovery. The District is proceeding with downsizing as I speak. However, every city that has recovered from insolvency has done so because of a balanced strategy of downsizing on the one hand and investment or take-over of some functions by the state on the other. However, the Congress has not even begun to think through how to continue its existing obligations, particularly the unfunded pension liability that is almost entirely its debt, and a federal payment formula that would be worthy of the name. I am working on two bills on these two subjects of primary congressional responsibility and will hope to have this committee's support.

Even these two responsibilities do not fulfill the ultimate responsibility of this body to help the District develop a reliable, long-term revenue source the way Pennsylvania, New York, and Ohio did for the cities they brought back to solvency. We need to start the thinking and the planning now. Otherwise, we discourage the remaining taxpayers, who, seeing no realistic strategy for recovery may well be inclined to leave, worsening an already desperate situation. We need to say out loud what most of us already know. A permanently balanced budget in four years, as required by the Financial Authority legislation, cannot occur using the limited downsizing strategy in place.

In this economic and fiscal climate in this Congress, helping the District find a reliable revenue stream is at least as difficult as helping the District to downsize. Even if Congress decides that the District must do more before revenue will actually be forthcoming, this body must at least begin to think through this daunting problem.

I will shortly introduce a bill that I hope will help begin this process. On April 15th, I will introduce the District of Columbia Economic Recovery Act to afford a substantial federal tax reduction for D.C. residents and their businesses. The goal of this tax discount is to retain and attract middle income taxpayers. In essence, the bill seeks to revive the economy of the District the old fashioned way -- simply by encouraging people to live in the District, so that there are enough of us residing here to pay our own way. I challenge other members either to help me on my bill or bring forward their own solutions. I am very pleased at the reception my bill is receiving with the Republican leadership in particular, and I know I will have similar support from my own leadership.

I want to encourage today's witnesses in their extraordinarily difficult efforts underway. They deserve to know that the Congress, which admonishes them concerning their financial responsibilities, also recognizes its own responsibilities.

Mr. DAVIS. Ms. Norton, thank you very much. We have our first panel of witnesses. Miss Collins, do you want to make any statement you may have or just submit it for the record?

Miss COLLINS. In the record.

Mr. DAVIS. I appreciate your being here, and without objection, it will be in the record.

Now I'm pleased to introduce our first panel of witnesses, consisting of the Mayor, Marion Barry; David Clarke, the chairman of the District of Columbia Council; our permanent witness today, Mr. Anthony Williams, still the Chief Financial Officer of the District; and John Hummel, a partner in KPMG Peat Marwick, the independent auditors of the District's financial statements.

It's the policy of this committee that all witnesses must be sworn in order to testify. Would you please rise with me and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. If we can sit in front of the microphones, it makes it a lot easier. We've got four microphones and four people there.

Before you commence, I'd like to just make a few observations about the audit. Mr. Hummel, I understand that you're what is called the engagement partner for Peat Marwick assigned to the District of Columbia.

Your firm performed the independent audit and issued a report as required by law. I've read that report as part of the District's comprehensive annual financial report, and I thank you for the candid information you supplied.

Twice in your report you used the phrase, "We were unable to obtain sufficient evidence." This included references to the general fund and the water and sewer enterprise fund.

You also referred to several significant unresolved future funding issues. You found material weakness in many areas and referred to a report on compliance with laws and regulations addressing violations in other areas.

In addition the management letter, which was only recently released, cites numerous deficiencies in internal controls and failures to implement past recommendations for improvements and to correct weaknesses.

We look forward to a frank discussion of these findings. Mr. Williams, in addition to the other important testimony you have to present, I would appreciate your addressing vendor payments.

This is a particularly important issue as the District's reputation for bill-paying has not been exactly a confidence builder.

I applaud your strong efforts to take on this problem and to bring rationality to the previous method of prioritizing payment schedules. Your report on actions and plans and improve and enforce internal controls is also anxiously anticipated.

Mayor Barry, Dr. Brimmer said last week that the condition of the District was far worse than he realized when he accepted appointment to the Control Board.

In light of your continuing effort to bring significant amounts of additional cash, I hope you will address in detail and without any sugar coating why the city needs additional cash and what is the actual financial condition of the District.

And to Chairman Clarke, I'm interested in the Council's view of the actual financial condition of the District and whether you believe that the Council is getting enough information to play an intelligent role in moving the District forward.

We've got to be frank with each other. We've got to call it as we see it. If we have the facts, then we can all sit down together and work it out.

One of the great difficulties of this committee and on the Appropriations side is somehow getting the real facts to light.

Mayor Barry, we'd be honored to hear from you first.

STATEMENTS OF MARION BARRY, MAYOR, DISTRICT OF COLUMBIA; DAVID A. CLARKE, CHAIRMAN, DISTRICT OF COLUMBIA CITY COUNCIL; AND JOHN HUMMEL, KPMG PEAT MARWICK, LLP

Mr. BARRY. Good afternoon, Chairman Davis, Ms. Norton, Miss Collins. I'm here today to discuss the financial condition of the District of Columbia government.

Some information which I share with you is new, some positive, and some even interesting. To many, though, what I have to report may even sound boring.

Let me assure you that to the citizens of Washington, DC, this is not boring. It is tragic. It's painful and in many instances demoralizing.

To the commercial suppliers of our services and the regional agencies dependent on us to carry our share of the load, including Metro, the message is more than painful. It's disgusting, irresponsible, immoral.

In brief, the message is filled with documented actions by the DC government to reform and rejuvenate its role while, in terms of our 1996 budget, the Federal Government has failed to meet even its financial responsibilities to the Nation's Capital.

Mr. Chairman, the roots of our present situation can be traced to the beginning of limited home rule in 1995. To craft the most useful solutions, we must keep in mind the context of the problem.

When the DC government took over the city, county and State responsibilities assigned by the Home Rule Act in 1973, let me just emphasize this, there was no accounting program or audit conducted during the transfer.

We did not know how much money we had in the bank or what the program efficiencies were. In fact, it was not until 1979 and 1980, under my previous administration, with the help of Arthur Anderson and the Senate and the House, when we could objectively document that more than $279 million was owed the District in debts carried on by the Federal Government.

I repeat that. The city government has paid the $279 million that was left over from the Federal control, of the city, out of our own local bills.

So it seems to me, for starters the Federal Government, Mr. Chairman, never paid us our $279 million. It's a debt that's owed. It's documented. It wasn't ours. It was the Federal Government's, and nobody has stepped to the plate to say we ought to pay that.

That's $279 million that would help us to replenish the local taxpayers' money that was paid back in 1979–1980 that has been carried over ever since.

Also left behind by the Federal Government were the liabilities of unfunded pension programs, liabilities which have cost DC residents out of our own local money over $1.2 billion to fund.

It continues to eat up more than $300 million a year of our local tax moneys. Every investigation, every analysis, every audit has traced the responsibility for this obligation to the Congress, yet we remain charged with this debt.

Throughout the 1980's, our expanding economy hid much of the pain of these injustices. Hard times have forced every business, every institution, every government to face the realities of world competition, technological resolution and intense services demanded by customers. We are no exception.

These pressures hit District government as I was going through my own personal difficulties. At years of balanced budgets and surpluses, we began feeling the shifts in costs.

Medicaid costs, for example, went from $17 million in 1973 to more than $744 million in 1995. Let me just say a little bit about the Medicaid costs.

If you look at our budgets, the average Medicaid cost has been about 9 to 13 percent every year. When you look at our natural revenue growth, even in good times it has been no more than 7 or 8 percent, which means you have a major Medicaid growth of 9 to 13 percent and revenue growth of as low as 2 percent last year, which means that creates a huge gap in expenditures, which means you either get additional revenues or you cut somebody else's budget to fill that gap.

There is no mystery about that. There is nothing complex about that. So in 1991, the city had a $331 million deficit, which was left from my previous administration.

On the other hand, it has financed it over a 12 year period, which meant that in 1991 this previous deficit was eliminated. We are paying some $38 million a year now to take care of that particular debt.

In addition, in 1991, the city government received a cash infusion from the Congress of $100 million, thereby giving the city government $431 million of new moneys.

We expected reforms to occur, but actually, they did not occur. As all of us can recall, I was here before the Congress February 22, 1995, and at that point I was the messenger of bad news.

For once, we began to find out how deep our deficit really was. Not only did the previous administration overspend by $335 million, the spending trend as of February was still headed up.

Let me say, Mr. Chairman, members of the committee, this overspending in 1994 did not occur because of lack of controls.

The government knew exactly what it was doing, and the decision to spend money, for instance, in public works, some $25 million over its budget was a decision made at the highest level of government.

It was an election year, and we saw more roads being paved and streets being fixed and potholes repaired. So let no one tell you that in 1994 there was no knowledge of this overspending.

The system was simply overridden to allow these agencies to overspend their budget, not lack of controls. Anyone looking at this budget and this expenditure report would know that the financial management system was capable of telling everyone who could see it, what the spending patterns were.

Also, we found that Medicaid had been underfunded. In 1995, the budget was $283 million of our local money. Everyone knew previous to that there had been over $320 spent in 1994. So you knew then that Medicaid was underfunded. So you had underfunding.

Also, when I add it all up, which I'll share with the committee, we found in February 1995 that if left unchecked the District faced the potential deficit of $322 million, $117 million from Medicaid cost settlements for 1991, 1992, 1993.

We found in 1995 that there had not been these audits as far back as 1990. You had Medicaid audits for hospitals, for nursing homes and ICFMRs, which are group homes, had not been audited since 1990, and therefore there were moneys owed for 1990, 1991, 1992, 1993, 1994 and 1995. Also, there were additional Medicaid expenses of $82 million. Medicaid was underfunded by at least that amount of money, $283 million, knowing that you need to spend far more than that.

On short-term borrowing, $15 million interest had not been put in the budget, and $16 million of agency overspending to give us $230 million. Add the projected deficit of $94, $91 in cash, to give you $722 million.

There are people who disagree with that, but the trends were there. When you examine that, no one can say that was not the trend of the government.

But once unharnessed, the spending trend continued. So the question is what did the District government do? The Barry administration grabbed hold of this problem to try to stop the bleeding.

And we worked awfully hard to try to turn that trend around from March to September that not only recaptured the losses of the earlier months we show—now, I want you to see this figure. Ms. Holmes Norton is right. We've not been given credit for the tremendous amount of work we did between 1994 and 1995.

The actual spending of the DC government as documented by the audit done by Peat Marwick was $151 million below 1994.

This is the first time this has happened in modern history of the DC government where you're spending the year of 1995 $151 million less than you spent in 1994.

Moreover, the deficit in 1994 was $335 million. However you want to count it, that was a deficit; whereas, the deficit as displayed by the audit of 1995 by Peat Marwick was $54 million, demonstrating that we have done a tremendous amount of work of actual spending cuts, of actual spending reductions, et cetera.

Also, during that whole period, we've lost since October 1994 and January 1996 we have lost almost 6,000 people, not positions, people, people, people, from the payroll.

Incidentally, since we're talking about the size of the government, Mr. Chairman, I'd like to ask that page 5 of the Multi-Year Budget Report be entered into the record.

Mr. DAVIS. Without objection, it will be in the record.

[The information referred to follows:]

Other revenue sources: The Authority reviewed the revenue assumptions presented on January 18, 1996, and incorporated in the Mayor's budget. While it agreed at that time to the assumptions presented, it also reviewed what has been included as revenue. Of major concern to the Authority is the federal payment. While other District revenues have risen slightly over the last few years, the federal payment has not kept pace with inflation, resulting in a loss of $116 million in revenue.

Areas beyond District control: The Mayor's plan does not separately identify costs imposed on the District government by a multitude of court decrees under which it must operate. The Authority does not question the legality of the decrees or the constitutional and statutory premises which underlie them. But it is compelled to point our that these decrees threaten to distort the priorities of the District government because of the inadequacy of resources to comply with them. For example, the Department of Corrections alone must operate under nine separate consent decrees. Under just one of these decrees -- mandating the provision of medical services at the D.C. Jail -- the Receiver administering the decree appears to be demanding that a predominant portion of all the funds available for medical services go to that decree. This would leave little for medical services at all other facilities operated by the Department. It is essential that the District government address the impact of these decrees and attempt to work out a rational system for consolidating and administering them consistent with the District's available resources.

Following review of the above items, the Authority determined that, overall, substantial progress has not yet been made. At the same time, it wishes to note that progress has been made in the following areas:

- review of the budget process -- The iterative review process that is currently underway has given both the city and the Authority a vehicle in which to discuss all potentially available options
- vendor payments -- The CFO's implementation of a vendor process has instilled stability in what was not always a fair and concise process
- contracts -- In the Authority's review of contracts, it has identified potential savings and is working with the District's largest contracting agency to improve the latter's procedures
- budget execution and monitoring -- The CFO's creation of a budget execution team is centralizing accountability for spending for the District.

Financing the Deficit

The Mayor's plan includes the borrowing of $650 million in 1997 to finance the deficit and to provide adequate working capital. While it is essential that the deficit be financed, the Authority is concerned as to whether the targeted amount is sufficient to cover the true working capital needs of the District. Further, long-term financing is required to begin to renovate the infrastructure in schools, water, sewer, buildings, streets bridges and equipment. The Mayor's plan does not address these needs.

Mr. BARRY. Thank you. In 1991, the DC government had on its payroll 48,392; 1992, 50,349; 1993, 47,695; 1994, 46,391; 1995, 41,807, and January 1996, 40,658.

My transformation plan would take us to 30,000 by the year 2000. What we have is 18,000 people who have left the DC government in less than a decade.

New York City, as stringent as it had to be, only lost 20 percent of its payroll during the whole period of the control board period.

Philadelphia did not reduce its payroll at all in terms of personnel. It reduced its payroll costs by working out with the unions a number of agreements.

So when you lose almost 40 percent, 40 percent in 10 years, the number of people working for this government, both Federal grants as well as local money, no one can say that the District government has not been rigorous in its efforts to right-size this government.

So I just want it to be said that 18,000 people left its payroll. You can't say that about any other city in America in terms of losing 40 percent of its personnel in 10 years in good times or bad times, and I think it's very, very important.

Also, our workers are paid a higher price. We had 3 percent wage reduction and 6 furlough days for all of those who were eligible for furloughs in nonemergency situations.

Our police officers took a 4.2 percent reduction in their longevity pay. No one liked that. I didn't like it, and even though they took it, they're continuing to fight crime as vigorously as they can.

Our police officers went on straight time for court overtime. That's a great sacrifice, 4.2 percent of their base longevity pay.

And then their court overtime, which numbered $20 million in 1994, we only spent $10 million in 1995. Correctional officers went on straight overtime.

The point we're making here is that this administration has been vigorous in trying to do all it could to control costs, and citizens have made sacrifices. Employees have made sacrifices.

We've cut services to residents, businesses and visitors as documented by the audit and the number's $189 million; that is, the citizens of Washington were recipients of $189 million less services than they were in 1994.

Now, in terms of the Control Board, we know the back and forth that went on with that. Let me just say for the record there are a number of American cities that are in worse shape than we are that don't have a control board.

But I recognize that Congress was not about to allow the District of Columbia government to go to the Treasury to borrow money without having this mechanism into place.

So we recognize that as a political reality. We're working with it. It's the most stringent control board anywhere out of the seven or eight cities that have had one. More stringent than New York, Philadelphia, in Cleveland, in Chicago or Boston, and we're working with that.

But what happened, and Ms. Norton started in that direction, this Control Board and this act was one-sided. It only focused primarily on downsizing and cutting the size of the government.

Look at Philadelphia. Look at New York. When New York got into serious trouble, first of all, the State rushed in with an $800

million loan, long-term loan, no collateral, just lent the city of New York $800 million.

What else did it do? It took over New York's Medicaid functions which was millions and millions and billions of dollars. It took that responsibility.

The State took over the operation of the college education system for New York, again saving the city of New York millions and millions of dollars.

In Philadelphia, the State took over a number of their functions, too, but in Washington, the Federal Government did not take over one function that we were spending money for, unfunded pension liabilities, Medicaid, prison costs or any other costs.

We're still paying 50 percent of our costs of our Medicaid budget, and that's the second thing.

Third, in New York and in Philadelphia there was a mechanism put into place to make whole the deficit. In Philadelphia, it was $332 million that the control board was able to borrow to retire Philadelphia's previous deficit.

In New York, it was over $1 billion of retirement of their deficit, which meant that you started whole at that point with three prongs—downsizing, reducing the cost of government, State taking over certain functions that were previously performed by the city government and then retiring the accumulated deficit of the past.

So we're only one-third in this equation here. Today we ought to talk about the other two-thirds. I maintain we look at what we've been able to do. We have certainly done our share.

What is the impact of us not retiring this deficit; $335 million in 1994, $54 million in 1995, a projected $140 million to $150 million in 1996 and a planned deficit, if the Control Board approves our plan, of $102 million.

The impact is not implicated. The hospitals, who are struggling to stay open, are carrying this deficit.

The group homes, these are persons who are caring for our mentally ill and our mentally retarded and our juvenile youth. These group home operators are carrying this deficit.

Our fuel oil people are carrying this deficit. Small businesses furnishing fuel oil, repairs and services. It's not the responsibility of those people to carry this deficit. That's unfair.

In fact, several of our key suppliers have filed bankruptcy because they couldn't get paid for services rendered to the DC government.

Over 30 of our vendors and business people are in trouble with IRS—Mr. Williams can tell you that because he has to deal with them—who cannot get their payment because the IRS has attached a lien to their accounts through no fault of their own, but because the DC government has not stepped to the plate and refinanced his deficit.

And that's who is carrying it. It's not right. The pain and inconvenience doesn't stop with our primary service providers. It happens to our workers, and our workers are anxious as to whether or not they're going to get paid.

So I've given you a history of what we've been able to do. You can see very clearly that the DC government has tightened its belt, has gotten control of its spending.

And Mr. Williams can tell you, he knows what the obligational responsibilities are of each of these agencies. It's not as though we don't know.

So Mr. Chairman, you mentioned, does the city have enough money? If you read the McKinsey Report which was an independent consulting firm that did this pro bono for the Federal City Council, not for the DC government, they said to this world and to this Congress and to Washington, that DC government has to have a multi-facet approach.

It has to cut its budget, but it probably can't do more than one-third, and revenue of audits, which is unfunded pensions or some help with our correctional system, Medicaid, or new revenue has to be dealt with, given our present situation.

So we've gotten control of spending. We've made great sacrifices to cut our budget, and now the question is where do we go from here?

The other part of this problem is that the "act" did not allow for capital borrowing. Where are we going to get the capital money from?

We usually go to the bond market and have 15, 20-year periods to pay it back, but because our access to the bond market was closed, because of our major deficit, and our structural imbalances, the only way we can get it is on a temporary basis. That's no way to deal with things.

So we come now with some solutions. I propose that Congress join us, join the city in arranging for a $600 million long-term financing to retire our previous deficit.

Where did I get that number from? It's, again, not complicated, $335 million from 1994, $54 million from 1995, a little over $150 million in 1996 and over $100 million in 1997.

That comes to more than $600 million, but $600 million would allow us, Mr. Chairman and members of the committee, to instantly pay off all of these business people who are suffering out here.

Mr. Williams will tell you that on any given day we owe at least $300 million of pay to some business people, some hospitals or some group homes or some small business people.

We have in our 1997 financial plan $60 million to repay debt service on that, principal and interest. So we make that plea. The act needs to be amended to allow the Treasury to allow us to borrow long-term.

And I'm not going to get involved with the scoring issue. That's not my problem in terms of whether or not it scores or doesn't score. That's the U.S. Government's problem.

We need the money, and the only way we can get it, Mr. Chairman, is from the U.S. Treasury with a dedicated revenue source which could be part of the Federal payment.

They can guarantee it, and that way we can go on about our business. I spend 10 or 15 percent of my time every day on business vouchers and talking to business people, getting cursed out on the telephone, being picketed by people.

Mr. Williams probably spends 35 percent of his day dealing with these vendors. In fact, they come to his office. He set up a vendor payment unit. They storm his office. They picket him, and they

curse him out, and that shouldn't be the case. We don't need all that.

Mr. DAVIS. Mr. Mayor, we're going to have a vote in about 10 minutes.

Mr. BARRY. I'll wrap it up by that time.

Mr. DAVIS. Maybe 5 minutes, and we may not hear the other panelists. Your whole statement is entered in as part of the record. I want you to make your plea.

Mr. BARRY. Let me make another plea, then.

Mr. DAVIS. OK. We'll give you time to do that.

Mr. BARRY. There is a gospel song, something about bended knees or something like that. Anyway, Mr. Chairman, there are two other points I want to make.

The Federal payment is woefully inadequate. We've only used the Federal payment primarily using the property tax payment in lieu of taxes, 43 percent of the land owned by the Federal Government.

Let me put another ingredient into our Federal payment discussion. That is, we're not allowed to tax income at its source, as you very well know, and politically, we'll never get that authority as long as you and other people are in the Congress to disagree with that. I understand that.

Mr. DAVIS. That is correct.

Mr. BARRY. That's right. Now, in lieu of that, since we're down by that because of the Federal Government, not because of anybody else, and because 43 other States have it, because if you live in Camden, NJ, and work in Philadelphia, you pay Philadelphia 4.5 percent wage tax taken out of your tax in New Jersey, it's the Federal Government's responsibility to give us lieu in tax of that.

There is $19 billion that goes out of our city every year, 70 percent of it. If it were taxed at 2 percent, it would be $345 million.

What we're suggesting is the Federal payment be increased from $660 million to $860 million as a starter, that there be a 5-year authorization and there be a 5-year appropriations.

This increased Federal payment, Mr. Chairman, would not go for spending or balancing our budget. This increased Federal payment would go for economic development initiatives.

Mr. DAVIS. Can I just ask one question. I've, kind of, held back here, and I want you to finish your statement, because I've got a couple of questions that are timely on what you were going to say.

And I'm going to ask those questions before I hear from the other panelists, because I'm going to want them to respond.

The Congress upped the Federal payment significantly when your predecessor came into office, 30, 40 percent increase in the Federal payment.

Mr. BARRY. Mr. Chairman——

Mr. DAVIS. What happened? Where did it go?

Mr. BARRY. It had been held steady for 4 years.

Mr. DAVIS. But I'm talking about——

Mr. BARRY. Wait a second, $440 million during the Reagan years, it had been held steady for 4 years. And when it went from $440 to less than $660—it wasn't always $660. I think it was five something.

Mr. DAVIS. A huge increase.

Mr. BARRY. Yeah, an increase. And inflation in 6 years had done that. So let's not say that the Federal payment was greatly increased——

Mr. BARRY. But the deficit went up. As the payment went up, the deficit went up, and there is a strong feeling in Congress from me and others that the city was just hemorrhaging out this money, was not accounting for it and spending it properly.

That's why a control board is there. They will be your best friends before the time has come because they may give credibility to some of the statements you're making here, because frankly, we saw the deficit go up even while the payment goes up. This was not on your watch.

Mr. BARRY. Mr. Davis, we agree. So we got that out of the way. The deficit went up $335 million in 1 year, the highest in the history of our city, from 1993 to 1994.

But on the other hand, the Federal payment argument should stand alone by itself. You will not allow us to tax residents at its source, so I'm advocating——

Mr. DAVIS. Mr. Mayor, nobody has allowed you to tax revenue at the source. When you had a Democratic Congress and a Democratic President, they didn't let you do it.

So it's not me. I mean, let's just be frank here. We're here to help. We want to lay it all out, and if at the end of the day we feel that changes are made and this money is going to be spent responsibly and that's what it needs to get the city going, we want to help you do that.

But understand what we're undergoing here. When Mrs. Norton and I go out to our colleagues and ask for more money, they remember 1991, when Ms. Kelly came up here and asked for a huge increase in the payment.

And they remember that starting with that additional payment, things went south for the city. So it wasn't just money, and that's the perception we have to overcome.

But, my question is really, where did that money go?

Mr. BARRY. Mr. Chairman, you should lead the fight to demonstrate that the conditions have vastly changed since 1994. We have a Control Board in place which has to approve our budget and has to approve our financial plan.

We have a city council in place, which has to review our budget and has to approve our budget. We have a Congress in place that's more sensitive now to the numbers and looks at it carefully, opposed to taking somebody's word.

We've got an audit firm that, in my view, did an excellent job in 1994 with our audit, so conditions have vastly changed.

I'll tell you what happened to the money. In 1993, the city changed its methods of collecting property taxes, $173 million.

What has happened is that the expenditures of the government far exceeded its revenues, and it was done with knowledge of people in the DC government, no mystery about that.

So that ought to solve that. But back to the present, we have the controls in place——

Mr. DAVIS. But moving it five quarters, collecting it five quarters in 1 year—and I know how that trick works. Arlington County did

it. We looked at it in Fairfax and found it was fiscally irresponsible, but that just gave the city more money.

Mr. BARRY. Mr. Chairman, what I'm saying is that the money—the previous administration proposed and spent far more money than we had in the Treasury. It's as simple as that, spent it on roads, spent it on Medicaid, spent it on everything, but I'm not here to talk about that.

Mr. DAVIS. We don't even know where it all went, do we?

Mr. BARRY. Beg your pardon?

Mr. DAVIS. We don't even know where it all went, do we?

Mr. BARRY. Yes. We know where it went. We can take department by department.

Mr. DAVIS. Well, I'll ask the Peat Marwick people.

Mr. BARRY. It's not hard to figure out. Anybody who did the audit in 1994 can tell you what agencies overspent, tell you what the revenues were and et cetera.

So it's not hard to figure out. It wasn't sent down some train somewhere. It was spent in certain departments, but that's not the issue with me.

That's past. I can't do anything about that. You can't, Mrs. Norton can't, and I can't do anything about 1994, but we have done something about 1995.

Mr. DAVIS. But understand this. Our Members——

Mr. BARRY. But it's up to you to tell the truth about the fact that I can't do anything about it.

Mr. DAVIS. We need to get it all out on the table now, but understand that's the legacy which predates this very term that we have to explain to Members of both parties.

Mr. BARRY. Do we have to live with this sin forever?

Mr. DAVIS. No, I hope not.

Mr. BARRY. There is a passage in the Bible that says that the children of the fathers shouldn't have to have lockjaw because their fathers ate sour grapes.

Mr. DAVIS. What passage was that? Do you remember?

Mr. BARRY. Deuteronomy. Amen. But I think we have a responsibility to say to people, look, we know you didn't like what happened then, and we know that we're overspending.

But, right now we have new systems in place. We have a control board. We have a responsible Mayor. We have a responsible council, and we've got a Congress in Mr. Davis and Mr. Walsh and Ms. Norton and others who are more scrutinizing of these numbers.

We have an audit firm now that, in my view, does a better job. We have a CFO whose job it is to control spending in the execution of the budget.

The last point I want to make about this, Mr. Chairman—back to the Federal payment, let me just emphasize this so everybody will know, any increase in the Federal payment will not be used in the operating budget of the District.

That is, it won't be used as a way of closing the gap. It could be helpful in paying back some of that deficit in terms of principal interest, but more importantly, if we could reduce the property taxes on businesses and the corporate tax on business. Suppose it's a $50 million reduction in that kind of tax, then the Federal payment

could be a substitute for that tax, which means we could then give businesses a chance to benefit from coming back to the District.

It's similar to Ms. Norton's proposal about Federal income taxes. That is, the Federal Government is going to absorb the loss.

So what we're saying here, let us do a business development plan which reduces the corporate income tax, the property taxes and other taxes on business, and to substitute for the loss in local money be made up by the increased Federal payment, not to be put in this sink hole over here you think that's not going anywhere.

Anyway, I've laid out our view about it. In summary, we are doing a great deal to reduce this budget. We have demonstrated that.

The numbers have demonstrated. A $54 million deficit is certainly a big drop from $335 million. My transformation plan is getting good reviews by the Council and by the Control Board.

We have differences here and there, but we're committed to 30,000 employees by the year 2000. We're committed to a balanced budget by the year 1999.

Ms. Norton is right. It's going to be like trying to lay brick without mortar to get to 1999 without some revenue avoidance or some revenue input.

Mr. DAVIS. And Mr. Mayor, very candidly, when Congress sees what you have to cut and go through to get to that 1999 number, we may, in fact, see that there may have to be some revenue increase to get there.

I certainly don't want to rule that out. We'll have more time for questions, and I want to hear from Chairman Clarke and others.

Mr. BARRY. Mr. Chairman, have we agreed now that we're not going to keep paying for the sins of our fathers and mothers?

Mr. DAVIS. It was Ezekiel, by the way, at least the first part of it. The second part of the quote I think you'll find somewhere else.

Mr. BARRY. Was Barry's.

Mr. DAVIS. I think we want to get through it, but the only way we're going to get through it is to have your CFO, the Control Board, Peat Marwick and everybody singing from the same sheet of music where there not only one-time changes in terms of how we're meeting the deficit but structural changes.

And there is only so far you can go before this city deteriorates beyond something that not only city residents and suburban residents, but the people from this Nation aren't going to tolerate.

We just need to get that all out on the table. That story has to be told. We want to help you tell it. So we're not in an adverse situation. I think our destinies, to some great extent, are intertwined, but understand that the average Member up here remembers putting more money into the city and seeing that alone wasn't the solution to the problem; it's how the money was spent.

Now the money goes to the Control Board. I will say we are seeing some progress, and we need to get that story out in terms of the city making downsizing moves and reorganizing.

The problem is every time we take two steps forward, then you take a step back, and there is a lot of conflicting signals.

And I recognize that when you speak you're not only speaking to Members of Congress but through the same media you have to

speak to city residents and reassure them. It's a difficult tug and pull.

Mr. BARRY. Mr. Chairman, on that point, though, I've been very consistent, even with the veto about the RIF rules. It wasn't how many people go out. It's who goes out.

And I think when you analyze it—I sent you the letter. You read it into the record—it showed that what was passed by the Council is different than what's up here.

So I don't know what the Council is going to do, but that wasn't inconsistent. I think when you transform, transformation does not mean crucifixion.

It means transforming, making things better and government better, but you can't kick people on their way out or kick them while they're down. That's not fair. I'm sure you don't advocate that. So I was very consistent. Even the Washington Post now, I think, is recognizing that there was consistency there.

[The prepared statement of Mr. Barry follows:]

Testimony Of

MARION BARRY, JR.

Mayor
District of Columbia
Before The
CONGRESS OF THE UNITED STATES
March 28, 1996

Good afternoon, Chairman Davis, and members of the DC Subcommittee of the Government Reform and Oversight Committee.

I am here today to discuss the financial condition of the District Government. I wish the information I have to share was new, positive, or even interesting. It is none of those. You have heard all of this before.

To many, what I have to report may even sound boring. But let me assure you that to the citizens of Washington, D.C., it is not boring -- it is tragic, painful, and demoralizing. To the commercial suppliers of our services and the regional agencies depending on us to carry our share of the load (including Metro), the message is more than painful. It is disgusting, irresponsible, and immoral.

In brief, the message is filled with documented actions by the District Government to reframe, reform, and rejuvenate its role, while the Federal government has failed to meet even its minimal financial responsibilities to the Nation's Capital.

The roots of our present situation can be traced to the beginning of limited Home Rule in 1975. To craft the most useful solutions, we must keep in mind the context of the problem.

When DC Government took over the city, county, and state responsibilities assigned by the Home Rule Act in 1975, there was no accounting or audit conducted during the transfer. It was not until 1979 and 1980 when we could objectively document that more than $279 million in unpaid bills were left by the Federal Government. These bills were paid from our local tax revenues and have not yet been reimbursed.

Also left behind by the Federal Government were the liabilities of an unfunded pension program -- liabilities which have cost DC residents more than $1.2 billion to fund so far and which continue to eat up more than $300 million a year of our local tax monies. Every investigation has traced the responsibility for this obligation to the Congress. Yet we remain charged with this debt.

Throughout the 1980s, our expanding economy hid much of the pain of these injustices. Hard times have forced every business, every institution, and every government to face the realities of world competition, technological revolution, and intense service demand by customers. We are no except. These pressures hit District Government as I was going through my own

personal difficulties.

After years of balanced budgets and surplus revenues, we began feeling the shift in costs. Medicaid costs, for example, went from $17 million in 1973 to more than $744 million in 1995. Our prison costs soared as well.

We recorded a $118 million deficit in 1990. In 1991, however, a $331-million dollar, 12-year refinancing was allowed for the District to give our government a clean slate to face reorganization, reform, restructuring.

As we know today, that reform did not occur.

All of us recall my visit here on February 22, 1995. The news I shared that day was devastating for the District. The worst fears many of us had for the financial condition of this government were confirmed and overshadowed by the audit report for FY '94. A government that had balanced its budget for 13 of the previous 15 years was in a financial free-fall.

Not only did the previous administration overspend by $335 million, the spending trend as of that February was still headed up.

It is important to note that this deficit did occur simply through lack of control of agency spending. Much of this deficit can be traced to specific decision made at the highest levels to overspend for public services in an election year.

But once unharnessed, the spending trend continued. Our projections in early 1995 showed that if this trend continued, we would have seen a deficit in FY '95 of $722 million. The projection was well documented. It included the acknowledged shortfall of $401 million the Kelly Administration reported in December, plus $117 million for overdue Medicaid settlements, $82 for current Medicaid additional expenses, $15 million interest on short term borrowing, $16 million in net agency increases, and $91 million in cash shortage.

Some observers disagreed with our projection at that time, but there was no disagreement about the trend.

And there is no disagreement about what this Administration did about it. By October 1, we had turned the trend around. From March to September, we not only recaptured the losses of the early months, we showed a net annual decrease of $151 million. This was the first time in recent history that actual spending in a fiscal year was less than the previous year. In fact, if revenues had remained constant, we would have shown a surplus for FY '95

The catastrophe of FY '94 produced a number of immediate results.

My election, and the defeat of the previous administration, signalled a desire for change by the District's citizens.

Our doorway to the Wall Street bond markets was closed.

We rolled back DC worker wages by $79 million.

We cut services to residents, businesses, and visitors by $189 million.

We initiated a workforce downsizing that so far has seen 6,000 workers leave District employment.

The Congress terminated our ability to borrow from the U.S. Treasury without further oversight.

The Congress provided a new oversight mechanism in the form of the Financial Responsibility and Management Assistance Authority.

In addition to carrying on the daily work of keeping this government afloat, the Barry

Administration initiated a ten-month intensive effort to create a new, transformed DC Government.

One thing did not happen. Everyone walked away from the unpaid bills of Fiscal Year 1994. To this hour, this $300 million plus rolling wave of left-over deficit is carried on the backs of those who provide services to our city. This is not right. This is not good business. And -- in the end -- this is self-defeating.

I think it is fair to say that ten percent of my time, Tony Williams' time, and Michael Rogers' time is spend coping with the payment problems.

Hospitals who are struggling to stay open and adapt to the new realities of health care must also manipulate their borrowing and capital needs around the delayed payment schedule of the DC Government. Group homes who care for the mentally ill cannot make their payrolls or their payments. Small businesses, furnishing fuel oil, repairs, or services, are going bankrupt because we cannot pay our bills even close to on time.

Several of our key suppliers have filed bankruptcy. More than 30 are in trouble with the IRS and have their payments diverted. Some of our landlords face foreclosure from their mortgage lenders because we aren't paying the rent in a timely manner.

The pain and inconvenience doesn't stop with our primary service providers. It rolls to their workers, their suppliers, their landlords and their bankers. Our poor financial performance has rocked our entire community and region.

There is no reason for this to happen. It is not the history of other successful reorganizations.

The recent history of businesses, institutions, and government in America is filled with turn-around stories. Every segment of our economy has had to adjust to a new competitive environment. Every successful turn-around has begun with settlement of the cash issue. No financial advisor suggests rebuilding budget realities while ignoring cash demands.

We have the benefit of previous municipal experiences with control boards. Clearing the balance sheets of left-over debt was the first order of business in New York City, where the state government provided more than $800 million in long term financing. The control board additionally arranged millions more for cash flow use. In Philadelphia, long term bonds provided $322 million in long term financing for old debt and over one billion dollars in additional financing for cash flow and investment purposes. In both these cases, this early money was simply to make the government "whole" prior to rebuilding.

Unfortunately, this approach was not followed in our case.

The act creating the Financial Authority prohibited or clouded the normal business options for dealing with this left-over debt.

First of all, borrowing of any kind is limited to what can be secured by our annual Federal payment -- now fixed at $660 million.

Second, capitol borrowing is prohibited -- except as it can be repaid out of the Federal payment -- hardly the kind of long-term financing usually associated with capitol investments and improvements.

Our government -- like any other -- has cyclical borrowing needs to even out the cash flow during the year. Our need for this cyclical borrowing, and for even our bare minimum of capital needs exceeds this arbitrary $660 million ceiling for borrowing. On top this normal need

for cash, we have on any given day more than $300 million due in overdue payments because of left-over deficits.

There is a reasonable solution. I propose that Congress join us in rapidly arranging $600 million in long term financing. This funding should not and will not be dedicated to any new spending by the government, but to resolve the old left-over debt problems. This money would accommodate the $335 million deficit from FY '94, the $54 million deficit from FY '95, as well as the $150 million deficit we anticipate this year. Let's accept this responsibility to put this cash issue to rest and concentrate on the rebuilding that is so important to all of us.

Mr. Chairman, what all this means is that the state of the financial condition of the District Government is largely in the hands of the Congress. It will be whatever you want it to be.

We have responded to this crisis with dramatic "stop-the-bleeding" actions and well-founded longer-range initiatives for substantial change. The transformation plan, the FY '97 budget, and the four-year financial plan represent a responsible and viable solution to our problems. Further, it paves the way to restoring the luster and quality of city life becoming to America's First City.

Except for the positive efforts of you, Congresswoman Norton and a few isolated supporters in the House and Senate, nearly all Congressional involvement with District affairs has been negative.

We will soon begin our seventh month without a budget. Included in the appropriations legislation are important enabling actions necessary for us to meet our reform agenda. Some of these allow an orderly reduction in our workforce. Others allow procurement and purchasing reforms.

At the same time, $220 million of our Federal payment, due last October, has yet to be paid. As I mentioned earlier, this failure has a critical impact both on our cash flow and our ability to do even short term borrowing to meet cyclical needs.

Beyond the direct failures of the Congress to meet even minimal requirements for support of the Nation's Capitol in a time a crisis, I want to comment on a curious Congressional intrusion which flies in the face of logic and causes perpetual confusion. The requirement by the Congress, to include in its appropriated review the previously appropriated federal grants into a so-called "gross budget," makes no sense whatsoever.

This requirement creates a needless and punitive double standard between the fifty states and four territories of the United States of America and the District of Columbia. Every other jurisdiction receives Federal funding to perform Federally mandated chores irrespective of state or local revenues or programs. In the Nation's capitol, Federal grants can actually reduce local initiatives or cancel out local funding.

The only apparent benefit of this requirement is to provide certain members of Congress the ability to say that the District has "nearly $5 billion" to spend. This flip and irresponsible approach to our crisis demeans Congress as an institution and certainly hinders quality dialogue or informative debate.

Let me describe another kind of mischief that keeps occurring while our business is neglected here on Capitol Hill. As I mentioned earlier, the FY '96 DC Appropriations Act contains specific "modified reduction-in-force" provisions. Our Council recently sent to me similar, though not identical, legislation on an emergency basis. Close examination of this new

legislation revealed a number of problems, not the least of which would be competing features once the Congressional version was passed.

On recommendation of our legal counsel, and particularly in the face of features that would strip workers of their rightful severance pay and place legal clouds over several of our RIF actions already in the pipeline this year, I vetoed this legislation.

In spite of thorough explanations, a press conference, lengthy correspondence and personal telephone calls, a significant attempt was made to mis-interpret this veto. Some -- including the chair of the Control Board -- went to great lengths to advertise this action as a complete reversal of this Administration on reductions to the workforce.

I am committed to our workforce alignment plan which will take us from 40,000 workers in 1995 to 30,000 in 1999. The question is not how many workers will be involved, but which workers. We have learned from our experience so far to be careful about critical skills and institutional memory in key agencies. We have learned to be sure of our legal responsibilities to leaving workers.

It is irresponsible and counter-productive to change the rules in the middle of the game. It is also irresponsible to rush out with public political judgements before getting all the information and engaging in productive dialogue. A new District Government will emerge through collaborative action, not confrontation or public bickering. There can be little excuse for responsible leaders leaping to gain some publicity advantage. But if Congress had acted in a prudent and timely manner, this mischief would never have happened.

The District Government, under the leadership of the Barry Administration, the Control Board, and the Council, has met the primary requirements of Congress' 1995 Act. We have made "substantial progress" toward balancing our expenses and our revenues. We have produced a plan to reach a budget surplus by 1999.

We have reduced the workforce by 6,000 positions in the past 18 months. We are acting on plans that will achieve a 25% decrease -- to the 30,000 employee level -- by 1999.

We are investing in change, creating a new Financial Management System and providing $8.5 million a year in special workforce training for the next four years. We are beefing up core services -- including police protection, fire protection, K-12 education, and public works.

It is time for the Congress to come to the table. It is time for Congress to put something positive ON the table.

It is past time for Congress to move on its current responsibility to the Nation's Capital. And I would urge that its action become more consistent with its mandate to the local government.

Through the Control Board Act, Congress was greatly concerned with appropriate accountability in finances. It seems a good time, then, for the Congress to come to the table with financial solutions based on reasonable business assumptions. The current Federal payment, for example, is justified on the basis of revenue "in lieu of" property taxes. Though the amount of the payment does not adequately reflect the true costs of this "in lieu of" responsibility, it at leasts recognizes the loss to local revenue we suffer through the 43 percent of our land occupied by the Federal government, the more than 30 Congressionally mandated exepections for special institutions, the nearly 200 foreign embassies, and the military presence -- all expempted from support of city services through property taxes. It is estimated that we lose more than $550

million in appropriate property taxes from these exempted properties.

It is time to recognize that although the political climate for income taxation at its source does not exist, that the nation has the responsibility to pay the District "in lieu of" income taxes as well as "in lieu of" property taxes for all the services delivered to this job base. More than $19 billion in income at DC job sites leave the city every year. This measure is used to determine our service levels by many local and Federal performance standards. But, of course, we enjoy none of the benefits of that income.

The value of this unavailable revenue, based on only two percent of the income leaving DC, is estimated at $345 million per year.

I would propose a new level for the Federal payment which would recognize this issue. The new level should begin at $860 million a year, and have fixed escalations, to accommodate this more appropriate business-like assumption.

Further, the Control Board Act speaks rightfully for predictability and consistency in financial policy. When the Congress is serious about sponsoring a new bomber, a new space mission, or a major environmental investment, it underscores that serious commitment by authorizing and appropriating on a multi-year basis.

I request the Congress to get as serious about the District's revival as it is about other long-term commitments. Coming to you with the FY '97 Budget is a multi-year projection of expenses and revenues required by the Act. I request that the Congress respond with a five-year authorization act, and a five-year appropriation for America's First City.

I propose that the new Federal payment levels be $860 million in FY '97, $900 million in FY '98, $930 million in FY '99, $950 million in FY 2000, and $970 million in FY 2001.

More realistic funding through an expanded Federal payment should not be used to increase government spending, but rather to provide economic development stimulus to our threatened core city. We must lower business costs, become more competitive with the region, and provide genuine development incentives to create jobs and retail trade in the downtown core and the neighborhood commercial centers in the District.

In closing, Mr. Chairman, let me repeat my disappointment with the institutional response of the Congress for the past year. At the same time let me express my gratitude for individual support that various members have shown. I am especially grateful for your time, understanding, and effort.

You have brought to this assignment a regional view which correctly assumes that the heart of the region is vital to the health of all the region. In addition you have brought considerable hard work, negotiating strengths, and patience. Thank you for this opportunity to bring this report and for your continued work to bring the District-Federal relationship into a more appropriate balance.

I will be glad to answer any questions.

Mr. DAVIS. I'm sure I'll read it there tomorrow on the editorial page. Mr. Clarke has been waiting here patiently, so we will hear from Chairman Clarke. Welcome.

Mr. CLARKE. I appreciate that. I want to thank you, Chairman Davis, and other members of the subcommittee for the opportunity to testify on the financial condition of the District.

My testimony will focus on generally background and dealing with how I believe the District has come to this point of insolvency as well as to offer my views on the present status of the District finances and the fiscal year 1996 and 1997 budgets, which serve as the blueprint for restoring the District to solvency.

Finally, I will lay out what the District is doing in terms of contributing to the District's fiscal recovery.

As cited in what we call the FRMA law, the District of Columbia Financial Responsibility Management Assistance Authority Act, a combination of accumulated operating deficits, cash shortages, management inefficiencies and deficit spending have created a fiscal emergency in the District of Columbia.

How exactly did that happen? During the go-go 1980's, the District, like many other public and private enterprises, enjoyed increased revenue.

Due to increased business activity, the government grew exponentially. Numerous new programs were established, and then the bottom began to fall in the late 1980's.

Financial markets began to contract, and business activity began to slow down and, in some cases, cease. This was done without any consideration for the fact that this period of economic boom would not last forever.

I recall my efforts at that time to impress upon the executive of the need to slow down spending. However, my warnings fell on deaf ears.

It is clear that we were not prepared for this sudden economic contraction, and that it was not possible to immediately redirect this mammoth government apparatus to respond to changing economic conditions.

As a result, the condition was further exacerbated with changing administrations and the lack of the development of a sound financial plan that would have guided the city through this turbulent period in its history.

I do not blame any particular individual or institution because there is a great deal of blame to go around, blame that is inclusive of the Council as well as the Congress.

Changing administration coupled with the massive brain drain associated with the early easy-outs did not help matters in terms of allowing for management stability during these fiscally turbulent times.

Insolvency did not happen overnight. It is the result of a buildup of inadequate internal controls, minimal to no management accountability, inadequate and poorly implemented technology and an absence of real planning, and yes, the lack of the will to make the hard decisions.

Not being able to include more than 40 percent of the District's property as part of its tax base coupled with the fact that it is estimated that about $20 billion a year is earned in the District of Co-

lumbia each year and only about $2 billion of the $20 billion is subject to local income and franchise taxes also has contributed to the District's insolvency.

This revenue lock has created structural limitations on the District that must have addressed immediately before more harm can be done.

In addition to deficit spending, inadequate management accountability and the lack of financial planning, several technology related deficiencies have also greatly contributed to the fiscal crisis.

They are cash management systems and procedures that impede the effective tracking of incoming and outgoing dollars, an inefficient payroll and personnel system that creates a management environment in which the District loses money due to inefficiencies and lack of controls.

Inability to prepare real-time daily, weekly, monthly and quarterly financial reports, inadequate budgeting and financial planning and monitoring systems, poorly designed accounting systems which make it very difficult to supervise and enforce accountability with regard to financial transactions to ensure adequate control of revenues and resources and to assure that appropriations are not exceeded.

Inadequate technology, taxpayer data and appropriate personnel to effectively perform receivables management function. These are just a few of the deficiencies which have and still plague the District.

Now I would like to try to briefly discuss where we are today. As acknowledged by the Control Board and the Mayor at last week's hearing, the District is perhaps worse off now than it was a year ago when the FRMA legislation was implemented.

This is unfortunate. As a result of the absence of an improved fiscal year 1996 budget along with growing pains created by the establishment of the Control Board, we have lost valuable time that could be used to provide a stronger foundation upon which the fiscal year 1997 budget and plan could be developed.

The fiscal year 1996 budget was to be a transition budget. The fiscal year is half over, and we still do not have an approved budget.

This has greatly hampered the District's financial planning efforts as well as created a great deal of uncertainty that has challenged the District's stability to institute the necessary internal controls and financial oversight to guide it through this transition period.

Despite this uncertainty, the city has managed to meet the Congress' mandates with regard to spending and budget making.

The Mayor has produced a fiscal year 1997 budget and plan that is credible and, if executed properly, can serve as a blueprint for restoring fiscal stability.

However, it is clear that we must work together and with the Control Board to further refine the document, making it as precisely as possible as well as more reflective of realistic implementation expectations for fiscal year 1997.

The chief financial officer released a press release last week touting the fact that last year to date spending has been substantially reduced as compared to the same time in fiscal year 1995.

I applaud the CFO, in that it appears as though his spending control measures are taking effect. However, I challenge him to keep his eye on the real prize.

Yes, the District has and still needs to go on a spending diet, but the real aim ought to be balancing the need to substantially reduce spending with the need to effectively deliver essential services.

Just cutting and reducing spending is not enough. That is too easy. The challenge is to reduce spending while at the same time delivering essential services effectively.

The city's current service delivery effectiveness can easily be measured by asking ourselves several basic questions: Is the trash being picked up? Are our children being properly educated? Do our seniors feel safe?

Are there a plethora of potholes that seem to be consuming city streets just being filled? What is the state of the local business community's confidence in the District government? If I get injured and must be rushed to the hospital, how long will I have to wait for an ambulance?

I challenge the CFO to not lose sight of the purpose of the local government and local government's ultimate responsibility, which is the delivery of essential quality of life services even under the most adverse of circumstances.

The city phase an accommodated deficit of $378 million, which is expected to grow in fiscal year 1996. This, as well all are aware, that create add daily cash-flow crisis of about $300 million.

This means that vendors are not being paid, and those that are must be able to finance their District receivables for long periods of time because the District is not able to ensure timely or somewhat timely payment.

Based upon anecdotal information, many businesses have been forced to close their doors due to their dependence on the District government.

Many vendors have stopped providing goods and services to the District because of the poor payment record. The lack of not having an approved appropriation has further exasperated the District's cash-flow crisis in that the District still is awaiting the remainder of the fiscal year 1997 payment, the remainder being $219 million, which would be used to pay vendors in addition to providing some economic stimulus to the local economy.

As I stated earlier, the fiscal year 1997 budget and plan are to serve as the District's 4-year blueprint for reestablishing solvency.

The Mayor's plan lays out numerous management and cost savings initiatives as well as provides for a restructuring of the government, although as indicated by the Control Board's action on the fiscal year 1997 budget last Friday, there is a great deal more that has to be done to further refine the analysis and the substance that support the plan.

The plan calls for about $266 million in personnel and nonpersonnel savings initiatives which have been discounted down to $184 million.

Spending reductions, along with these initiatives, still leaves the city with $102 million projected deficit for fiscal year 1997.

It is clear, when one looks at the various initiatives, that they may need to be further discounted. They are ambitious and must be properly executed.

Whether all of these savings can be achieved in fiscal year 1997 is questionable. However, the plan does provide a good start, but more fine tuning is necessary.

Perhaps the greatest challenge of the plan will be how well we execute it. The plan calls for numerous restructurings, privatizations and out-sourcing, which will require superior project management capability skills. Execution will be the name of the game.

Our goal is to restore the District to sustainable solvency. In addition to the successful execution of the fiscal year 1997 budget and plan, the government will have to be truly transformed, if true solvency—structural, revenue and management must be dealt with—is to be achieved in the near and/or long term.

Perhaps the most pressing issues that will challenge the District's ability to meet the goal of sustainable solvency are: Effective right-sizing of the bureaucracy, smaller but yet more effective government; institution of effective financial and managerial controls across the government.

Improvement of budget-making capabilities and shift to a performance/outcome based budget philosophy; training and cross-training of personnel.

Streamlining Medicaid operations and substantially reducing Medicaid costs through improved automation, management accountability and program savings.

Immediate and successful implementation of the new financial management system that allows the government to effectively monitor and track all District financial activity as well as provide the necessary subsystem interfaces such as grants management, budget, treasury, procurement/accounts payable, Medicaid and personnel.

The District must be allowed to finance the accumulated deficit which is expected to exceed $400 million by the end of the fiscal year.

Unless this occurs, the District cash-flow crisis will get only worse, and we run the potentiality of having to shut the city down.

We must work diligently to deal with and solve the unfunded pension liability program. We must deal changing the Federal/District Medicaid relationship in terms of the financial burden this program places on the city.

We must deal with the inadequacy of the Federal payment. The District personnel and procurement systems must be overhauled.

The District must do a better job of managing the billing for and receipt of revenues it does have control over. The District's receivables management function and systems must be immediately overhauled.

KPMG, in its recent annual audit of the District, cited that the Department of Finance and Revenue mailed out more than 165,000 pieces of mail to taxpayers which were returned to the department because of bad addresses or insufficient data. This clearly speaks to the need to do something in this area.

In addition to increased Federal assistance, we must work diligently at the local level to, wherever possible, develop a response and balanced economic stimulus approach to growing the local economy.

Future budget and financial plans should reflect this philosophy. The city of Philadelphia has devoted an entire section of its financial plan to tracking and monitoring the government's economic stimulus efforts. The District should do the same.

The Council has and will continue to do its part in the District's overall recovery effort. The fiscal year 1997 plan will keep us busy in that to effectuate most of it will require local legislative action which we are prepared to consider.

Legislation is now pending in the Council to change the payment formula for retirees in the current plans by increasing employee contributions from 7 percent to 8 percent, reducing the number of annual COLAs from two to one and increasing and extending the amount of the Federal payment beyond the year 2004.

We're in the midst now of considering the Tax Revision Commission Establishment Act of 1997 to create a Tax Revision Commission to analyze the District's tax laws in terms of revenue, productivity, efficiency, equity and effect upon the District's economy.

To evaluate solutions for meeting revenue needs while enabling the possibility that generates must be reduced, to make recommendations for change to the Council and the Mayor.

We're also considering the District Business Incentive and Taxpayer Protection Act of 1996 which would improve the attractiveness of the District of Columbia with respect to economic development by reducing local franchise tax rates in conjunction with Federal tax relief that Ms. Norton suggested, to the District of Columbia directly as a result of the Federal action specifically targeted to the District of Columbia.

In other words, if the Congress will reduce our Federal taxes, this will key in to the extent that your Federal income taxes is brought down—well, not to key to the extent, in proportion to the Federal income taxes being taken down will have a reduction in our District of Columbia franchise tax, and we hope that will encourage more businesses.

I'm about to introduce a District of Columbia Payment in Lieu of Taxes Act. I will be doing this this week, I believe.

The bill would authorize the Mayor to establish what we call a payment in lieu of taxes, a pilot program, as well as authorize him to introduce pilot agreements with tax-exempt organizations within the District.

The program would be of a voluntary nature. As a matter of fact, on Monday, I will be meeting with about 39 federally tax-exempt organizations to discuss my efforts to authorize the establishment of a voluntary payment in lieu of taxes program.

As you are aware, we were successful in securing a written commitment for the National Education Association to participate in the program if we are successful in getting it off the ground.

In closing, despite the many setbacks the District has faced this year with regard to having to operate under one continuing resolution after another, we have made some progress.

The District is on the way to reforming the budget process and financial oversight capabilities. However, we must remain diligent and focused upon what this is all about.

It is not merely trying to establish a world record for being able to cut spending at a breakneck pace but the successful balancing of budgets that reflect sound service delivery that will facilitate the establishment of sustainable solvency.

This will require all of our commitment, including the Congress, if we are going to pull this off.

Thank you, Chairman Davis, and I will respond to any questions you might have. You did throw out a couple of things.

[The prepared statement of Mr. Clarke follows:]

TESTIMONY OF CITY COUNCIL CHAIRMAN

DAVID A. CLARKE

Good afternoon, Chairman Davis and other members of the Subcommittee. I thank you for the opportunity to testify on the financial condition of the District. My testimony will focus on general background dealing with how I believe the District has come to this point of insolvency, as well as offer my views on the present status of District finances, and the FY 96 and 97 Budgets, which serve as the blueprint for restoring the District to solvency. Finally, I will layout what the Council is doing in terms of contributing to the District's financial recovery effort.

Background:

As cited in the District of Columbia Financial Responsibility and Management Assistance Authority Act, a combination of accumulated operating deficits, cash shortages, management inefficiencies and deficit spending have created a fiscal emergency in the District of Columbia. How exactly did this happen?

During the go go 80's, the District like many other public and private enterprises, enjoyed increased revenue. Due to increased business activity, the government grew exponentially, numerous new programs were established, and then the bottom began to fall out in the late 80's. Financial markets began to contract, and business activity began to slow down, and in some cases ceased. This was done without any consideration for the fact that this period of economic boom would not last forever. I recall my efforts at the time to impress upon the Executive the need to slow down spending. However, my warnings fell on deaf ears.

It is clear that we were not prepared for this sudden economic contraction, in that it was not possible to immediately redirect this mammoth government apparatus to respond to changing economic conditions. As a result, the condition was further exacerbated with changing Administrations, and the lack of the development of a sound financial plan that would have guided

the City through this turbulent period in its history. I do not blame any particular individual or institution, because there is a great deal of blame to go around. Blame that is inclusive of the Council, as well as the Congress. Changing administrations, coupled with the massive brain drain associated with the early/easy outs did not help matters, in terms of allowing for management stability during these fiscally turbulent times.

Insolvency did not happen overnight. It is the result of a build-up of inadequate internal controls, minimal to no management accountability, inadequate and poorly implemented technology, and an absence of real planning, and yes the lack of the will to make the hard decisions.

Not being able to include more than 40% of District property as part of the District's tax base, coupled with the fact that it is estimated that about $20 billion is earned in the District each year, and only about $2 billion of the 20 is subject to local income and

Franchise taxes, has also contributed to the District's insolvency. This revenue lock has created structural limitations on the District that must be addressed, immediately, before more harm is done. In addition to deficit spending, inadequate management accountability and the lack of financial planning, several technology related deficiencies have also greatly contributed to this fiscal crisis. They are:

A. Cash management systems and procedures that impede the effective tracking of incoming and outgoing dollars.

B. an inefficient payroll and personnel system that creates a management environment in which the District loses money due to inefficiencies and lack of controls.

C. Inability to prepare real-time daily, weekly, monthly, and quarterly financial reports.

D. Inadequate budgeting and financial planning and

monitoring systems.

E. Poorly designed accounting systems, which make it very difficult to supervise and enforce accountability with regard to financial transactions to ensure adequate control of revenues and resources, and to ensure that appropriations are not exceeded.

F. Inadequate technology, taxpayer data, and appropriate personnel to effectively perform receivables management function.

These are just a few of the deficiencies which have and still plague the District. Now I would like to briefly discuss where we are today.

Present Conditions:

As acknowledged by the Authority and Mayor at last week's hearing, the District is perhaps worse off now then it was a year

ago, when the FRMA legislation was implemented. This is unfortunate. As a result of the absence of an approved FY 96 Budget, along with the growing pains created by the establishment of the Authority, we have lost valuable time that could have been used to provide a stronger foundation upon which the FY 97 Budget and Plan could be developed.

The FY 96 budget was to be the transition budget. The fiscal year is half over, and we still do not have an approved budget. This has greatly hampered the District's financial planning efforts, as well as created a great deal of uncertainty that has challenged the District's ability to institute the necessary internal controls and financial oversight to guide it through this transition period.

Despite this uncertainty, the City has managed to meet the Congress' mandates with regard to spending and budget making. The Mayor has produced an FY 97 Budget and Plan that is credible, and if executed properly can serve as a blue print for

restoring fiscal stability. However, it is clear that we must work together and with the Authority to further refine the document, making it as precise as possible, as well as more reflective of realistic implementation expectations for FY 97.

The CFO released a press release last week touting the fact that year to date spending has been substantially reduced, as compared to the same time period in FY 95. I applaud the CFO, in that it appears as though his spending control measures are taking effect. However, I challenge him to keep his eye on the real prize. Yes, the District has and still needs to go on a spending diet, but the real aim ought to be balancing the need to substantially reduce spending, with the need to effectively deliver essential services. Just cutting and reducing spending is not enough. That is too easy. The challenge is to reduce spending, while at the same time increasing service delivery effectiveness.

The City's current service delivery effectiveness can easily be

measured, by asking ourselves several basic questions:

1. Is trash being picked up?
2. Are our children being properly educated?
3. Do our seniors feel safe?
4. Are the plethora of potholes that seem to be consuming City streets being filled?
5. What is the state of the local business community's confidence in the District government?
6. If I get injured and must be rushed to the hospital, how long will I have to wait for an ambulance?

I challenge the CFO to not lose sight of the purpose of local government, and local governments' ultimate responsibility, which is the delivery of essential quality of life services, even under the most adverse of circumstances.

The City faces an accumulated deficit of $378 million, which is expected to grow in FY 96. This, as we all are aware has

created a daily cashflow crisis of about $300 million. This means that vendors are not being paid, and those that are, must be able to finance their District receivables for long periods of time, because the District is not able to ensure timely or somewhat timely payment.

Based on anecdotal information, many businesses have been forced to close their doors, due to their dependence on the District Government. Many vendors have stopped providing goods and/or services to the District, because of its poor payment record.

The lack of not having an approved appropriation has further exacerbated the District's cashflow crisis, in that the District still is awaiting the remainder of its FY 96 federal payment ($219 million), which could be used to pay vendors, in addition to providing some economic stimulus to the local economy.

FY 97 Budget and Plan:

As I stated earlier, the FY 97 Budget and Plan are to serve as the District's four year blue print for re-establishing solvency. The Mayor's Plan lays out numerous management and cost savings initiatives, as well as provides for a restructuring of the Government. Although, as indicated by the Authority's action on the FY 97 Budget, last Friday, there is still a great deal more work that has to be done to further refine the analysis and substance that support the Plan. The Plan calls for about $266 million in personnel and non-personnel savings initiatives, which have been discounted down to $184 million. Spending reductions, along with these initiatives still leaves the District with a $102 million projected deficit for FY 97. It is clear, when one looks at the various initiatives, that they may need to be further discounted. They are ambitious, and must be properly executed. Whether all of these savings can be achieved in FY 97 is questionable.

However, the Plan does provide a good start, but more fine tuning is necessary.

Perhaps the greatest challenge of the Plan will be how well we execute it. The Plan calls for numerous restructurings, privatizations and outsourcing, which will require superior project management capability and skills. Execution will be the name of the game.

What is our Goal Moving Forward:

Our goal is to restore the District to **sustainable solvency**. In addition to the successful execution of the FY 97 Budget and Plan, the Government will have to be truly transformed, if true solvency (structural revenue and management issues must be dealt with) is to be achieved in the near and/or long term.

Perhaps the most pressing issues that will challenge the District's ability to meet its goal of sustainable solvency are:

1. Effective rightsizing of the bureaucracy (smaller, but yet more effective government)
2. Institute effective financial and managerial controls across the government
3. Improve budget making capabilities and shifting to a performance/outcome based budget philosophy
4. Training and cross training of personnel
5. Streamlining Medicaid operations and substantially reducing Medicaid costs, through improved automation, management accountability, and program savings.
6. Immediate and successful implementation of new FMS system, that allows the government to effectively monitor and track all District financial activity, as well as provide the necessary sub-system interfaces, such as grants management, budget, treasury, procurement/accounts payable, Medicaid and personnel.

7. The District must be allowed to finance the accumulated deficit, which is expected to exceed $400 million by the end of the fiscal year. Until this occurs, the District's cashflow crisis will only get worse, and we run the risk of potentially having to shut the City down.
8. We must work diligently to deal with and resolve the unfunded pension liability.
9. We must deal with changing the federal/District Medicaid relationship in terms of the financial burden this program places on the City.
10. We must deal with the inadequacy of the Federal Payment.
11. The City's personnel and procurement systems must be overhauled.
12. The District must do a better job of managing the billing for and receipt of revenues it does have control over. The District's receivables management function and systems

must be immediately overhauled. KPMG in its recent annual audit of the District sighted that during FY 95 the Department of Finance and revenue mailed out more than 165,000 pieces of mail to taxpayers, which were returned to the Department, because of bad addresses and/or insufficient data. This clearly speaks to the need to do something in this area.

13. In addition to increased federal assistance, we must work diligently at the local level to, wherever possible, develop a responsible and balanced economic stimulus approach to growing the local economy. Future budget and financial plans should reflect this philosophy. The City of Philadelphia has devoted an entire section of its Financial Plan to tracking and monitoring the Governments economic stimulus efforts. The District should do the same.

Council Financial Recovery Effort:

The Council has and will continue to do its part in the District's overall recovery effort. The FY 97 Plan will keep us busy, in that to effectuate most of it will require local legislative action, which we are prepared to consider.

Legislation is pending in the Council to:

1. Bill 11-316: the "Police Officers', Fire Fighters' and Teachers' Retirement Reform Amendment Act of 1995" to: change the payment formula for retirees in the current plans by increasing employee contributions from 7% to 8%, reducing the number of annual COLA's from two to one, and increasing and extending the amount of the Federal payment beyond 2004.
2. Bill 11-383, the "Tax Revision Commission Establishment Act of 1995" to:

A. Analyze the District's tax laws in terms of revenue productivity, efficiency, equity, and effect upon the District's economy.

B. Evaluate innovative solutions for meeting revenue needs while enabling the possibility that general rates might be reduced.

C. Make recommendations for change to the council and Mayor.

3. The "District Business Incentive and Taxpayer Protection Act of 1996", which would:

improve the attractiveness of the District of Columbia with respect to economic development by reducing local franchise tax rates in conjunction with federal tax relief that may be provided to taxpayers of the District of Columbia directly as a result of federal action specifically targeted to the District through special treatment of income subjected to federal

income tax, and to ensure that any such local initiated tax relief does not result in higher real property taxes collected under District Law.

4. **"District of Columbia Payment in lieu of Taxes Act of 1996"** This bill has not yet been introduced. However, the Bill would authorize the Mayor to establish a PILOT program, as well as authorize him to enter into PILOT agreements with tax exempt organizations within the district. The program would be of a voluntary nature. On this coming Monday, I will be meeting with about 39 Federally tax exempt organizations to discuss my efforts to authorize the establishment of a voluntary Payment In Lieu of Taxes Program. As you are aware, we were successful in securing a written commitment from the National Education Association to participate in the program if we are successful in getting it off the ground.

In closing, despite the many set-backs the District has faced this year, with regard to having to operate under one continuing resolution after another, we have made some progress. The District is on its way to reforming its budget process, and financial oversight capabilities. However, we must remain diligent and focused on what this is all about. It is not merely trying to establish a world record for being able to cut spending at a break neck pace, but the successful balancing of budgets that reflect sound service delivery that will facilitate the establishment of sustainable solvency. This will require all of our commitment, including the Congress, if we are going to be able to pull this turn around off.

Thank you Chairman Davis, and I am prepared to respond to any questions that you might have.

Mr. DAVIS. Right. I just want to ask you one quick question. On the whole pension issue, I'm not a tough sell on that in terms of some Federal culpability.

Nevertheless the city has had pending for some time its own pension reform bill where they were going to make its own changes in the ongoing pensions paid to employees.

Have you acted on that yet, and when are you going to act? You have a lot more credibility coming up here saying, "We've done our bit."

Mr. CLARKE. OK. Then, we've done our bit. So there, I've said that. And I'll point to it. We've actually passed what we could pass in the District of Columbia.

We've actually passed what we could pass, and there is other things that we want to be able to pass, but it's going to have to take some congressional action.

For instance, we can talk about cutting the COLAs. What the COLAs are pertaining to——

Ms. NORTON. Mr. Clarke, he's talking about new hires. He's not talking about the bills that the Congress is working on.

Mr. CLARKE. Is that what you're talking about, sir?

Mr. DAVIS. Right.

Mr. CLARKE. All right. We've done our bit, right?

Mr. DAVIS. Excuse me?

Mr. CLARKE. You said we do a bit. We've done our bit.

Mr. DAVIS. So you've taken care of the new hires.

Mr. CLARKE. OK. But in terms of the parts that we did do, they can't be effective, Mr. Davis, to a full extent.

We were ready to pass the legislation itself to reduce the COLAs, let the COLAs apply to people who came on board before 1980. And therefore, we can't do that under the home rule charter.

Mr. DAVIS. Let me make my question clearer. We're talking about a new pension plan for new hires.

Mr. CLARKE. Yes.

Mr. DAVIS. Has that been passed?

Mr. CLARKE. No.

Mr. DAVIS. Where is it?

Mr. CLARKE. It's in the City Council.

Mr. DAVIS. How long has it been pending before the Council?

Mr. CLARKE. I think about February 20th.

Mr. DAVIS. Wasn't there a bill reported out last year? It was my recollection. Didn't we have this discussion a year ago?

Mr. CLARKE. I'm sorry. The bill was reported out, I believe, year before last, sir, was the one I just described to you.

Mr. DAVIS. OK.

Mr. CLARKE. That applies to all of the people who retired dating way back to 1980, all the people who came on board going way back to 1980.

Mr. DAVIS. How about the new plan for new hires? Where is that?

Mr. CLARKE. We're trying to develop it. We're having some difficulties. You had asked another question I was about to go to, and that was one of the issues I was going to address, and that is getting information from the executive branch.

We had to pull some teeth, frankly, to do that. I wound up scheduling a meeting of our committee as a whole to bring it forth.

On the day of that meeting, as a matter of fact, during that meeting I finally got from our Department of Personnel the Mayor's proposal with respect to that.

I've been waiting for the Mayor's proposal. We had introduced legislation, but we knew that that wasn't the appropriate legislation.

We knew we had to refine that, and we needed to get the information from the executive and from, particularly, the director of the Department of Personnel, Mr. Larry King. I had put it out there. I had engendered an editorial in the Washington Post with respect to it, which I did. I had to talk to Mrs. Norton about it. I did that.

And finally, on the day that we actually scheduled the committee as a whole, they came in. The Mayor has now recommended that we go differently than we had started out.

We had started out with the legislation that I introduced for a confined contribution program. The Mayor is now recommending defined benefit programs pretty much like the program that we've had for the older employees but not as a part of the program that we've had for the older employees.

Mr. DAVIS. Let me just give you whatever accounts I have as just a member of this body. When the city has shown that they have gone to the wall and done everything they can do and then comes here, then it puts the monkey on our back, so to speak, then it's up to us to do it.

But until you've done that we're going to have Members looking every which way. Let me just give you an example. I remember in Fairfax where we wanted to get money for the Fairfax Parkway.

We went to the legislature, and they said, "Well, have you done everything you can do?" And we hadn't. It was only after we were able to prove to them that we had done everything we could do, we had set some tough priorities, we had made some tough decisions, that we went.

And at that point they were forced to address it. I think you would be in a much stronger position on an issue where, frankly, you have a lot the merit if you will make those internal changes.

I don't need to say anything more, but I would say that to both you and the Mayor, and we would welcome that.

Mr. BARRY. Mr. Chairman, this bill is going to get out fairly soon.

Mr. DAVIS. OK.

Mr. CLARKE. Excuse me. It's my turn. You were here. We have tried to do that. We've now got our Mayor to finally give us something. We've now got that.

I scheduled another meeting after that committee meeting. Mr. King did not appear at that meeting.

Mr. DAVIS. I don't care who was at what meeting.

Mr. CLARKE. All right, sir. OK.

Mr. DAVIS. All I'm saying is my only counsel to you is it will help us to help you. If I could hear you both say, "Yes, we're going to try to move that as quickly as possible," that's all we need to hear. I don't care who was at what meeting.

Mr. BARRY. The other thing what the Congress wanted to know is are we going to get a bill out this year. I'm certainly going to be anxious to get a bill out.

And also, Mr. Chairman, my view would be that whatever works out with the pensions I'll be willing to support the city taking added responsibility from 80 on, that part of the pension that was not——

Mr. DAVIS. Look, everybody, this is a very, very tough issue. It's a lot of money involved.

Mr. BARRY. Absolutely.

Mr. DAVIS. And everybody is going to have to step up to the plate.

Mr. CLARKE. Mr. Davis, I appreciate that. The City Council has been very diligent with respect to this issue. I'm sorry in our government we have different branches of government as well as in this government we have different branches of government. I'm sorry that we have that.

Ms. NORTON. Would the gentleman yield?

Mr. CLARKE. The City Council——

Mr. DAVIS. I will be happy to yield.

Mr. CLARKE. I'm going to make the case for the City Council, if I may.

Mr. DAVIS. Let me yield to Ms. Norton right now.

Mr. CLARKE. Thank you, Ms. Norton.

Ms. NORTON. I appreciate that. Just for clarification, there are two separate bills, one that the chairman has put in and one that the Mayor has had introduced.

These are different bills, and there may be good reasons for them. I know you had a problem of not being competitive, for example, with the rest of the region.

So you want to do that, be competitive so you don't lose your good jobs, and yet you've got to save money.

Finding ourselves in this dilemma, because we thought that one bill was coming forward, we asked for both bills, and we now have CRS looking at both bills.

I hope, during the recess, to get an opinion from CRS on the two bills that are now in the Council. Then, perhaps we can have a meeting just as Mr. Clarke, Mayor Barry and I had a meeting before when we decided upon an approach for the Congress to take.

You'll recall that this approach was to give back the pension fund to the Federal Government along with some money. If we can get the city—and let us try to do this, let's say, before Congress gets back—if we can get together the Council, the Mayor and my office to decide on how either to combine these approaches or choose one or the other, and we can get that through the Council at least for the first reading within the next month, then I can assure you that I will at least introduce my bill.

And I will be able to say I'm introducing this bill, and there is a bill pending before the City Council that would take care of new hires.

Mr. CLARKE. Ms. Norton. May I, for the record, sir?

Mr. DAVIS. Just very briefly, and then I'm going to move on.

Mr. CLARKE. June 6, 1995, we started it. Mr. Lightfoot and I introduced our legislation. It was February 20, 1996, that we finally

got the Mayor's position on it. That's how long it took, and that's about 2 months ago. We are continuing to work on the issues——

Mr. DAVIS. Mr. Clarke, we've just heard the Mayor's commitment to work on this. We've heard yours. The faster we move on this the better. That's all. It's up to you.

You're up here asking for help. You've got to help yourself.

Mr. CLARKE. Excuse is still part of the problem, Mr. Davis. I put that in my testimony, too. The Mayor has a wonderful plan, and I testified to execution.

We're dealing with execution now. The director of the Personnel Office did not come to our meeting when we put it together.

Mr. DAVIS. Mr. Clarke, I'm not pointing fingers. We're here today to get the facts.

Mr. CLARKE. Can I get your other question? You had another question.

Mr. DAVIS. Well, let me try to get to everybody first. Let me ask Mr. Williams, who has sat there patiently, to testify, and then we'll get on to Mr. Hummel. Thank you.

Mr. WILLIAMS. Well, Mr. Chairman, actually, in the interest of time and to the extent that I've submitted my statement for the record and have given previous testimony a few moments ago, I'd be happy to defer any comments.

Mr. DAVIS. Thank you. I'll get to some questions for you. It was an excellent statement. Without objection, it will be placed in the record.

[The prepared statement of Mr. Williams follows:]

TESTIMONY OF D.C. CFO ANTHONY A. WILLIAMS BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT U.S. HOUSE OF REPRESENTATIVES MARCH 28, 1996

Mr. Chairman, Congresswoman Norton, thank you for the opportunity to present testimony to you today on the financial status of the District of Columbia. I want to take this opportunity to provide a brief status report on our overall financial condition, a statement of its causes from my perspective, and a reference to the bright future presented by the Mayor's Transformation and its counterpart, the Fiscal Year 1997 Budget and Multiyear Plan.

As noted by this committee in the legislative history of the Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8)("The Act"), the District suffers from a compound problem at once financial -- a shortage of cash; fiscal -- a structural budget imbalance; and economic -- a stagnant local economy unable to fully meet the demands of our citizens for good jobs and wages and an improved standard of living. Each of these issues require special, unique approaches; all of them are often confused with one another. At this point at an admittedly tentative and basic level, my basic approach as CFO has been to one, stabilize the District's basic finances, its cashflow; two, achieve structural budget balance primarily by way of expenditure control; and finally, leverage our assets to support the District's economic development and the expansion of the private economy.

The Financial Condition

By any measure the District faces a continuing financial crisis. With a cumulative operating deficit of $378 million, and a cash deficit of at least $650 million, the District faces a cumulative deficit of almost $2.5million in FY 2000 if no corrective action is taken. Under this severe stress, it is not surprising that the District has borrowed internally from its enterprise funds, deferred cash payments, and used debt borrowings to fund its annual cash requirements. Against this background we struggle with cash problems in FY '96.

Beginning FY '96 with deferred outlays to vendors and Medicaid providers of between $200 and $300, upon repaying the Treasury for borrowings in FY '95 the District immediately borrowed $96 million for capital purposes in October and $283 million for short-term operating expenses in January. Enterprise funds have been "borrowed" in the amount of approximately $100 million and vendor payments are still delayed, although there has been improvement. These conditions have been exacerbated by the uncertainty of the District's appropriation process.

Cash flow problems -- with all of the attendant crises -- will continue until an overall refinancing of the District's cash deficit is achieved. These deficits cannot be absorbed

without expenditure reductions of a sweep and magnitude never before experienced in a major American city. Absent such an arrangement, short-term borrowing will be necessary, followed by short-term borrowing again at the beginning of FY '97. Enormous time and attention will be added to all of the other transaction costs involved in approaching piecemeal a long-term systemic problem.

Notwithstanding all this, and even accounting for deterioration caused by the tardiness of the remaining Federal Payment of $220 million, the District has made substantial progress in vendor payments. Based on the entry date of vouchers into out Financial Management System, Medicaid and regular vendor payments have been paid until mid-January; small businesses through mid-March; and all federal and capital payments have been made in full. Furthermore, a vendor assistance center continues in operation, providing one-stop inquiry service to vendors seeking information on the status of their receivables. The continuing delay in the District's appropriation threatens to reverse not only this progress but the District's fragile financial recovery as well.

The Fiscal Condition

Basically, the District suffers from a structural imbalance in its budget, that is, a recurrence of budget deficits only masked by stop-gap measures. For example, the District's revenues are expected to grow moderately at 1% while expenditures climb at 6% per year. This imbalance has been addressed in the past by vendor payment delays, changes in accounting treatments, and deficit financing. Unfortunately, the immediate balanced results from these initiatives have not addressed the fundamental gap between revenues and expenditures. What to do?

While the Mayor recognizes that the Federal Government must permit the District greater flexibility, contribute a larger share in program efforts, and address a looming pension fund disaster, he has not relied on the Federal Government in sketching out his vision for the District's financial plan for the next century. I applaud him for the conservative, prudent decisions he made in his FY '97 Budget, relying on no outside entity and the creativity of District businesses and residents.

The Economic Outlook

The District's population, declining from 638,000 in 1980 to an estimated 559,000 in 1990 is cause for concern. Our estimates point to a continuation of this trend until 1998. This loss of population and a weakening economic base, have more than counteracted the positive effects of the District's role as center of a metropolitan area and prime tourist attraction. Consequently, a declining tax base has been loaded with heavier expenditures.

As detailed elsewhere, a number of factors have slowed general fund revenue growth

to an anemic pace during the period of the FY '97 Financial Plan. In fact, given the regional consumer price index of approximately 3.3%, the revenue base of the District will lose $542 million in purchasing power by FY 2000. Under these conditions it makes little sense to propose new taxes. Expenditure controls and *revenue performance* must proceed revenue expansion.

Other Issues

Weaknesses in financial integrity, an unfunded pension liability, and an inadequate capital improvement program are also compelling conditions, and in the case of the pension fund, threaten the District's very survival as a going entity. The identification and implementation of solutions to these problems are all part and parcel of our overall financial recovery. My failure to detail them at length at this juncture is not to minimize them but rather to highlight at this point the immediate impact of the aforementioned financial and fiscal problems. Indeed, financial recovery and its counterpart, management improvement, all demand progress on these fronts as well.

In the area of the FY '95 Audit and the management control issues identified in it, my office has proceeded on two fronts. First, we are in the process of developing a District wide strategic plan for financial management, and as part of it, a District Financial Managers Council headed by the CFO, composed of agency controllers, and tasked with specific, incremental steps in an overall, comprehensive plan for financial management improvement. Second, we have retained outside assistance to compile a tracking system of all outstanding management control issues, building accountability with quarterly status reports on progress.

In the area of the pension fund liability, we believe it essential that the District continue, even accelerate its efforts. The Office of Delegate Norton, the Authority, and the President's Federal Task Force on the District have all devoted attention to this vital subject, and have all been supported by this office. It is safe to say that all of our efforts toward financial recovery will be in vain without relief in this area.

Finally, the District's approach to capital is the single largest subject of the Mayor's review of the Authority's recommendations regarding his FY '97 Budget and Financial Plan. I agree with the Authority that we must review our operating budgets to ferret out capital expenditures from operating expenditures; recognize the drag on our operating budgets -- for instance, in maintenance, caused by inadequate capital funding; and budget adequately for capital in the long-term in our financial plan.

Thank you Mr. Chairman and Ms. Norton for the opportunity to present testimony to the Committee. I would be happy to entertain any questions you may have.

Mr. DAVIS. Let me ask Mr. Hummel, I think we want to have you at least highlight some of the parts of your audit, because you're really the outsider here who has come in to look at the books. Please go ahead.

Mr. HUMMEL. Good afternoon, Mr. Chairman, members of the committee. My name is John Hummel. I'm pleased to be here today on behalf of my firm KPMG Peat Marwick to provide information that may be helpful to the committee in reviewing the operations and the position of the District of Columbia.

I'm the KPMG partner who was responsible for the 1995 audit of the District's financial statements. My personal experience includes more than 20 years of auditing financial statements of governmental entities both State, local and Federal.

We issued three reports in accordance with the General Accounting Office standards this year. We issued the reports on time despite several impediments such as snow days, furlough days, et cetera. In addition, we issued a management letter which includes matters of lesser significance.

My firm audited the District in the past from 1987 through 1991. I was the partner in charge of those audits, too.

What has changed in the District since 1991? A number of things. First, there has been a significant deterioration in the District's financial condition. Specifically, the general fund balance, a strong indicator of a government's financial position, has fallen to a negative $380 million.

Further, the District projects cash-flow difficulties throughout 1996, as we've been discussing, and predicted during our audit that they would certainly have to borrow funds sometime during this year.

This year we found many more violations of procurement rules than in 1991. The most common of these was not recording obligations when the District commits to spend money. We believe this practice is very harmful because it makes budgetary controls meaningless. Violations of the Antideficiency Act continue as in 1991, and they represent further violations of budgetary controls.

Equally as important, though, has been the impact of reductions in qualified financial personnel on the District's ability to manage its financial affairs and to even perform routine processing.

The District uses the same systems and follows the same interim and year-end reporting procedures as in 1991 but with far fewer people.

What were the results of this 1995 audit? Our most important finding was a very obvious one. The District has a serious liquidity problem.

Further, the District must begin to deal with its unfunded pension liability which will become a major funding issue in 2004.

Our opinion was qualified this year with respect to two accounts receivable balances, one affecting the general fund and one affecting an enterprise fund.

The first qualification had to do with business taxes receivable maintained by the Department of Finance and Revenue. Our test results of the details of those taxes yielded many errors in amounts the District said were payable to the District.

The second qualification had to do with customer receivables of the Water and Sewer Utility Administration. In this case, the District was unable to provide us with sufficient details to test these receivables on time.

Our two other reports were issued for the first time in 1995. The first one addressed material weaknesses in the internal control structure arising from poor electronic data processing facilities and operations and poor procurement practices.

The second other report addressed several instances of noncompliance with laws and regulations, the most significant of which was continued violation of the Antideficiency Act.

As to the adequacy of the District's financial systems, we noted that the systems are 15 years old. Systems software is poorly documented, and there are poor environmental and access controls at processing sites.

There is also poor overall systems planning and management. The decentralization of the systems causes repetitive manual processing of data and an increased risk of error.

Finally, the system complicates many processes that could be simple. For example, the system does not include individual invoice information that, if it were in the system, would greatly strengthen disbursement controls.

Thank you for inviting me to speak today. Please see our written testimony for further details, and I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Hummel follows:]

TESTIMONY TO THE DISTRICT OF COLUMBIA SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

JOHN H. HUMMEL
PARTNER, KPMG PEAT MARWICK LLP

Introduction

Good morning (afternoon), Mr. Chairman and Members of the committee. I am pleased to be here today on behalf of my firm, KPMG Peat Marwick LLP (KPMG), to provide information that may be helpful to the committee in reviewing the operations and financial position of the District of Columbia (District). I am the KPMG partner responsible for the 1995 audit of the District's financial statements. My personal experience includes more than 20 years of auditing financial statements of governmental entities, both local and federal.

We issued three reports in accordance with General Accounting Office (GAO) standards this year. The reports we issued were an *Independent Auditors' Report* on the general purpose financial statements, an *Independent Auditors' Report on the Internal Control Structure*, and an *Independent Auditors' Report on Compliance with Laws and Regulations*. In addition, we issued a management letter which included matters of lesser importance.

The District's Deteriorating Financial Condition

As you know, my firm audited the District in the past, specifically for fiscal years 1987 through 1991. I was also the partner in charge of those audits. What changed since 1991?

Two primary things. First, there has been significant deterioration in the District's financial condition requiring tighter and tighter budgetary constraints on procurement. The District agencies often respond to these constraints by going around the rules. We found widespread, commonplace violations of procurement rules. The most common violation is not recording obligations when the District commits to spend money. This practice, which is prevalent at District agencies, is very harmful because it makes budgetary controls meaningless. We think the extent of these violations has increased since 1991.

Add the lack of controls over recording obligations to the continued violations of the Antideficiency Act and you also get less budgetary control now than in 1991.

Equally as important has been the impact of reductions in qualified financial personnel on the District's ability to manage its financial affairs and perform routine processing. The District uses the same systems and follows the same interim and year-end reporting procedures as in 1991, but with far fewer people. Recordkeeping shortcomings that used to be corrected with staff help and institutional knowledge now hamper management and almost caused the District to miss its February 1 reporting deadline. Generally, closing deadlines were ignored. In fact, we requested the City Administrator to apply intense pressure to certain agency controllers to divert their attention from daily processing matters to closing the 1995 books. He did so, and the financial statements were completed on time. This level of intervention was new to us.

Now, I will discuss our audit findings in detail.

Results of the 1995 Audit

Our most important finding was an obvious one: the District has a serious liquidity problem. This liquidity problem is apparent in the general purpose financial statements which disclose a $378 million accumulated deficit. The District will continuously experience cash shortfall problems until this deficit is eliminated. Further, the District must deal with its unfunded pension liability which will become a funding problem in fiscal year 2004. All agree that the District will be unable to fund this liability, which in 2004 will be over $10 billion.

Despite the efforts of many individuals, including the City Administrator, the Chief Financial Officer, and the Inspector General, the District was unable to provide us sufficient evidence regarding two accounts receivable balances: one affecting the General Fund and one affecting an Enterprise Fund. This led to our qualified opinion on the 1995 general purpose financial statements. The fact that we qualified the opinion with respect to these two accounts does not affect the validity of the other financial information in the general purpose financial statements. I will now discuss the details of these two accounts for which we were unable to obtain sufficient evidence to reach a conclusion.

Reasons a Qualified Opinion was Issued and Magnitude of Difficulties in the Data Which Led to the Qualified Opinion

The first qualified account receivable balance relates to system errors in the Business Tax Information System (BTIS) which is the responsibility of the Department of Finance and Revenue (DFR). Business taxes include business income, property, sales and use, hotel occupancy, and other business related activities. These taxes are recorded in the General Fund. We tested the accounts receivable in BTIS and found errors in over half of the items we tested. Our testing included confirming amounts due with taxpayers, and examining support for amounts due. The errors included accounts receivable which were calculated incorrectly and amounts owed back to taxpayers which were calculated incorrectly. BTIS accounts receivable at September 30, 1995 were $77 million with an allowance for uncollectible accounts of $41 million for a net balance of $36 million. We tested accounts receivable of $9 million and identified errors totaling $3.6 million. We also tested amounts owed back to taxpayers of $18 million and identified errors totaling $10 million. We also found many incorrect taxpayer addresses and mail which was returned to DFR. For these reasons, we knew the accounts receivable information generated by BTIS was materially incorrect, but no one could generate the correct balance.

The second qualified account receivable balance was Water and Sewer Utility Administration (WASUA) customer receivables. WASUAs accounts receivable are the responsibility of the Water Billing Unit which moved during the month of November 1995. This move caused the Water Billing Unit to cease operations for over one month. As a result, reports which we required in order to perform our audit procedures were not provided to us until the day before our report was to be signed. Therefore, we did not have enough time to perform our audit procedures. For this reason we could not express any opinion as to whether the $31 million net customer receivable balance was correct.

Internal Control Structure Weaknesses and Lack of Compliance with Laws and Regulations

In our reports we describe material weaknesses in the internal control structure as well as non-compliance with laws and regulations.

The single most pervasive internal control weakness is in the electronic data processing (EDP) systems of the District. There is no strategic EDP plan which encompasses all District entities and a partial plan which has been developed by the Department of Administrative Services (DAS) has not been implemented. As a result, certain District agencies such as Department of Human Services (DHS) have very secure facilities which are underutilized, while other District agencies such as General Hospital have very poor facilities which are overutilized. Throughout the District we found a lack of consistent data security, segregation of duties, and system back up. The lack of a disaster recovery plan was part of the problem experienced by WASUAs Water Billing Unit when they moved and could not restart their operations.

The District once solved the weaknesses in EDP by using extensive manual labor to control and correct the data in these systems. The District can no longer afford to do this and as a result problems with the integrity of data in certain systems have arisen. BTIS is the primary example of this type of problem. Although DFR staff knew of the BTIS data problems, there were not sufficient staff available to correct the errors in the system manually as was done in prior years.

Weaknesses in procurement internal controls are also prevalent and are currently being addressed by the CFO and others at the District. As previously stated, the most significant problem is the fact that most District agencies do not enter obligations (encumbrances) in the general ledger (FMS) timely. As a result it is difficult for District managers to know how much budgetary authority has been spent at any point in time during the fiscal year. To compound this problem, the District's procurement regulations are complex and it takes a long time to get a contract approved through normal channels. In their effort to accomplish their agency mission many District managers use excessive sole source and emergency contract procedures. We asked for a list of all sole source and emergency contracts issued during 1995, but the District could not provide one to us. We tested those that we identified and believe that several of them should have gone through the normal procurement process, i.e., not been sole source or emergency. In addition, we noted certain District agencies "splitting" contracts when they were entered to FMS so that each line would be below their authorization dollar threshold. Finally, throughout fiscal year 1995 there were weak controls over the manual check writing process at the District Treasury. We recommended that the use of manual checks be stopped or severely limited. All of these weaknesses in internal control combined are a very serious risk to the District.

We reported several non-compliances with laws and regulations. Arguably, the most significant of these was the continued violation of the Antideficiency Act. In 1995, this occurred in four functional areas: governmental direction and support, the public education system, human support services, and interest and fiscal charges. The District has historically had Antideficiency Act violations which they disclose in the notes to the financial statements. The District is also behind schedule in performing its Single Audits of Federal Funds. Currently, all of these audits have been procured by the District but many have not yet been completed.

Our Views on the Management and Information Systems of the District

Our analysis of the current EDP systems of the District is limited to the internal controls over such systems and the ability of the systems to generate good year-end financial information.

As previously stated, we found many material weaknesses in internal controls over the District's EDP systems. We also noted that those systems are very old and decentralized, resulting in inefficient processing of data.

As to the adequacy of the system's balances to prepare year-end financial statements, we saw that the balances need a great deal of manual adjustment due to two reasons:

- the agencies often don't record encumbrances, so accounts payable recorded after year-end have a direct impact on the bottom line, and
- many adjustments to account balances are only recorded at year-end.

The level of District staff responsible for closing the books at the agencies and the Controller's office has declined significantly in the past year and may change more in the next few years. However, the District's systems have not changed and therefore manual processes that worked in the past are becoming more and more difficult.

We did not study the nature and adequacy of financial information provided to management during the year, because that was not part of our scope. However, we believe the EDP systems of the District must be changed to reflect the reality of the current and future workforce of the District.

Conclusion

We appreciate the opportunity to appear before you today and would be pleased to address any questions you may have.

KPMG Peat Marwick LLP

2001 M Street, N.W.
Washington, DC 20036

Independent Auditors' Report on the Internal Control Structure

District of Columbia Financial Responsibility
and Management Assistance Authority:

Mayor and Council of the District of Columbia:

We have audited the general purpose financial statements of the District of Columbia as of and for the year ended September 30, 1995, and have issued our qualified report thereon dated January 23, 1996. Our qualifications related to our inability to obtain sufficient evidence supporting General Fund Business Taxes receivables and Water and Sewer Enterprise Fund customer receivables.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the general purpose financial statements are free of material misstatement.

The management of the District of Columbia is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of general purpose financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the general purpose financial statements of the District of Columbia for the year ended September 30, 1995, we considered its internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk in order to determine our auditing procedures for the purpose of expressing our opinion on the general purpose financial statements but not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion.

We noted certain matters described in Appendix B involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the general purpose financial statements.

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Klynveld Peat Marwick Goerdeler

A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the general purpose financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above. However, we noted the matters described in Appendix A involving the internal control structure and its operation that we consider to be material weaknesses as defined above. These conditions were considered in determining the nature, timing, and extent of the procedures to be performed in our audit of the general purpose financial statements of the District of Columbia for the year ended September 30, 1995.

We also noted certain other less significant matters involving the internal control structure and its operation that we have reported to the management of the District of Columbia in a separate letter dated January 23, 1996.

We have provided these comments and recommendations to District management for their response. The District plans to respond to this report at a later date.

This report is intended for the information of the District of Columbia Financial Responsibility and Management Assistance Authority, the Mayor and Council of the District of Columbia, management of the District of Columbia, and regulatory bodies. However, this report is a matter of public record, and its distribution is not limited.

KPMG Peat Marwick LLP

January 23, 1996

Appendix A

Material Weaknesses

Improving Automated Financial Systems Is Essential to Reducing Costs, Avoiding Fraud, and Improving Financial Management Information

The Cost of the District's Decentralized Structure and Operations

Due to a lack of centralized planning, the District's computer systems have excess capacity resulting in inefficiencies. Unfortunately, this can not be seen in the District's annual operating budgets, because systems are procured over time and inefficiency is not addressed in the budgets.

Per the District of Columbia 1995-1998 Information Technology Strategic Plan, 1995 costs for information technology were estimated at approximately $124 million. Technology staffing for 1995 is over 530. These costs and staffing levels have been calculated based on surveys sent to District agencies by the Department of Administrative Services (DAS).

Decentralized Structure and Planning

The DAS has developed a District Wide Information Technology Strategic Plan. In that plan, DAS has identified that the District has excessive mainframe and minicomputer processing capabilities that are not being fully utilized. The plan notes that the District has multiple data centers at different sites, using 6 IBM ES9000 (one dedicated for processing one application), 1 Ahmdal, 2 Unisys, and 1 DEC/VAX mainframes; 61 minicomputers; and 171 LANs. It also identified that staffing at the various data centers is insufficient. The plan contains a methodology to consolidate processing resources, however, DAS lacks the authority to implement the plan. Thus, the plan is generally ignored by the agencies.

The District has not established a District-wide EDP steering committee. Further, SHARE, Public Schools, DHS, DOES, Lottery, and UDC either have not established EDP Steering Committees or the established committee is inactive. Data processing is an integral part of the District and without good planning for future processing needs, information processing equipment may become out dated, application software may not meet the users' needs, unnecessary projects may be initiated and implemented, and incorrect project priorities may be established.

1. To improve EDP planning, we recommend that:

- a District-wide information processing plan including each data center and agency be prepared and implemented
- a District-wide EDP Steering Committee consisting of representatives of senior management, SHARE, and major user departments be established to perform the following functions:
    - provide liaison between the EDP function and the users;
    - recommend major capital expenditures;
    - approve and monitor major projects, short- and long-range plans and annual budgets;
    - establish priorities;
    - approve standards and procedures; and
    - monitor overall EDP performance.

Decentralized Operations

Few, if any, of the District's various systems automatically interface with one another, causing redundant data entry and manual reconciliation. District agencies that independently operate financial systems re-key information into the District's central financial system, FMS. Further, subsystem data has to be summarized and re-keyed into FMS. Specific examples include:

- DC General maintains purchasing information on two separate systems: the internal Materials Management Information Systems (MMIS) and SHARE's accounts payable application.

- The Public Schools financial application does not electronically transfer data to FMS. Hard copy reports generated by the Public Schools' financial system provide information that is re-keyed into FMS.

- The Lottery has not established an automated interface with the On-Line Gaming System to process financial data. As a result, the Lottery is required to re-key substantial amounts of data from On-Line Gaming System reports into electronic spreadsheets to summarize activity and prepare FMS journal entries.

In general, the productivity of staff responsible for processing these transactions is decreased because the same information is entered twice, and any reconciling items between the two systems must be investigated and resolved to help ensure the integrity of data across the systems.

2. To improve efficiency we recommend that:

Based on a cost/benefit analysis of all feeder systems of FMS, electronic interfaces should be developed. Re-keying of information from one system to another should be minimized. Specific areas to initially focus on include:

- DC General should provide the necessary resources to automate the interface between the MMIS and the SHARE accounts payable system
- Public Schools should automate the interface between the Schools' system and FMS
- Lottery should consider installing financial accounting software that will interface with the On-Line Gaming System and FMS

The Processing Environment

The District's Pay and Retirement Unit, Treasury, SHARE, DOES, Public Schools, UDC, and DC General systems currently face two major risks: unauthorized access and physical damage.

Data centers throughout the District allow unauthorized access in varying degrees. For example:

- At SHARE, personnel enter the console room without a card if the door is not properly shut. Once inside the console room, one can access the equipment room because the door is often open.

- At DOES, entry can be obtained through the main door located directly off the elevator, which is a split door with the top half remaining open, as well as other doors on that floor. Doors to the DOES data center have not been equipped with access control mechanisms and remain unlocked.

- At DOES, blank unemployment checks are maintained in a vault in the data center. However, the combination to the vault has not been recently changed. Thus, DOES is unaware of who has access to the vault combination. Unauthorized access to the unemployment check stock could result in misplacement or theft of checks.

- At Public Schools, the data center door mechanism has the capability to stay propped open, and we observed the door propped open on a few occasions.

- At UDC, the door to the data center from the MIS offices remains unlocked during business hours.

- At DC General, the data center is located on a busy hallway frequented by both Hospital staff and visitors. The main door providing access to the data center and user output bins is not restricted, however, access into the computer room is restricted with cipher style combination locks on the door.

Data centers throughout the District are in a state of disrepair. For example:

- At DC General, the data center is located above the boiler room and thus subject to increased risk of water and fire damage. DC General also uses five file servers, which are located in a room on the third floor of Archibald Hall. Archibald Hall has been condemned, and water leaks into the room causing ceiling tile and wall plaster to fall on the equipment. Further, the carpet where the uninterruptible power supply (UPS) equipment is located is damp and no fire suppression system exists in the room.

- At DOES and UDC, air conditioning units are old and difficult to repair, so many of the compressors in the units do not operate. Replacement parts for the units at DOES must be specially made, which increases the cost of maintenance and extends the outage of the unit. During an outage, the temperature in the data center rises, causing data center operations to shut down.

- At Treasury, an internal check printing facility recently installed in the basement of the One Judiciary Square building has experienced numerous check jamming and mutilations. District management has determined that these jams occur when the room temperature reaches 80 degrees. This situation should be rare but is not, due to poor air conditioning systems.

- At the Pay and Retirement Unit, one optical scanner from a German company is used to process all Time and Attendance forms. A backup is available; however, it is used for parts until replacement parts can be obtained for the usable scanner. The Pay and Retirement Unit's inability to quickly replace/repair the scanner could result in significant delays in payroll processing.

3. To improve the processing environment, we recommend that:

- DOES and DC General consider the installation of a card key system to control access to the data center
- DOES change the combination to the vault and require the combination to be periodically changed, especially when employees who know the combination terminate or transfer
- SHARE, UDC, and Public Schools require the data center room door to remain closed and secured at all times
- DC General relocate LAN equipment and file servers to an environmentally safe and secure area
- DOES and UDC purchase and install new air conditioning units
- The Office of Financial Information Systems review and evaluate the current scanner technology on the market to consider buying a backup scanner

Data Security

When there is free access to data centers, logical data security is the last line of defense against anyone entering sensitive systems for personal gain or destructive purposes. Data security includes formal data security plans and policies, proper investigation of data security events, prompt removal of terminated employees' access to systems, prohibition of the use of generic Ids, password security, automated terminal logoff, dialback mechanisms, and "firewalls" to protect systems with Internet access.

The Department of Administrative Services Information Resource Management Administration has developed an Information Systems Security Directive. This directive applies to all agencies of the District and requires each agency to establish data security policies based on the directive. SHARE, DHS, DOES, DC General, Public Schools, UDC, Lottery, Department of Finance and Revenue, Pay and Retirement, and Office of Financial Management have not formally developed or fully developed and distributed data security policies and procedures. Security of computer systems is an important concern and includes protection of hardware, software, and data from unauthorized access and use. Security is each employee's responsibility, and a commitment from the organization's management is critical to the success of the security program. With agencies connecting to the District's Wide Area Network (WAN), risk of unauthorized access to the system resources is increased since District users can now access multiple systems at all agencies.

Without specific direction on important issues such as data security, inconsistencies in the application of security procedures can occur which can increase the opportunity for unauthorized access into the computer systems.

As a result of weak data security policies and procedures, we noted the following deficiencies:

Data security events for the SHARE mainframe which processes FMS, Unified Personnel Payroll System (UPPS), the Tax Systems, and the DC General Local Area Network (LAN) are monitored monthly. The DOES mainframe software to monitor security events has not been installed. This means that user problems and unauthorized system access attempts could continue unrecognized for an extended period of time or not be recognized at all.

Currently, SHARE, DHS, DOES, DC General, UDC, DFR, OFM, and Pay and Retirement have not established procedures for establishing generic userIds, and the timely removal of unused and/or terminated/transferred employee access. Specifically:

- Many FMS, UPPS, Tax System and SHARE mainframe userIds have not been used for an extended period of time.
- Many unused userIds remain defined to the DHS mainframe processing the ACEDS application.
- Based on our review of the DHS ACEDS application security, we noted 9 generic userIds assigned to conversion. We also noted 9 users possessing multiple userIds.
- At SHARE, many mainframe system userIds have not been used for an extended period of time. These Ids possess superuser authority providing access to all system resources and data.

Critical mainframe security software has not been appropriately implemented or installed:

- The DOES mainframe security software (ACF2) has not been installed. Thus, security of system resources and data is cumbersome and often non-existent.
- The SHARE mainframe security software to provide IMS on-line transaction security has not been purchased or installed.
- Many SHARE mainframe users possess unrestricted access to tape datasets.
- Too many superusers have been defined to the DHS mainframe which processes the ACEDS application. Further, critical security software parameters have not been properly set.

Users inquire, update, and delete data maintained in electronic format by submission of electronic transactions. These transactions are secured by the application security mechanism and not special software designed to control user access. As a result, we noted the following weaknesses:

- The FMS on-line security mechanism has many inherent weaknesses such as:
  - inquiry access to FMS is not secured. If a terminal has been granted access to FMS, then any individual with access to the terminal can perform an on-line inquiry.
  - UserIds and passwords providing user access to FMS transactions that update data are often communicated to multiple personnel.
  - UserIds and passwords are maintained in clear text in a data set that can be accessed by approximately 42 users, many of whom can update the data set.
- The tax system on-line security mechanism is controlled by antiquated software (MIS/OL) not designed to secure transactions. This has resulted in generic operator codes that exist and are known and used by multiple users. Many of these codes provide the capability to update tax data. Further, tax system operator codes are maintained in clear text (unencrypted) on the SHARE mainframe system.
- DOES DUCAS passwords are not encrypted by the application access control mechanism and are known by the Data Security Administrator and potentially the user's supervisor.
- Terminals providing on-line access to the FMS, tax systems, and UDC CUFS financial software do not automatically log off after a period of inactivity.

A dial back mechanism has not been installed in the Public Schools, DHS, DOES, and DC General communications environment to authenticate users remotely logging into the network. Without dial-back software, if modems providing remote connectivity to the system remain activated, the potential for unauthorized access to the system is increased. This could result in an unauthorized user accessing the system with malicious intent.

The Public Schools has not installed a mechanism ("firewall") which controls the interface between a subnetwork and the Internet to protect against unauthenticated interactive logons coming in from the Internet. Without a firewall, the potential exits that unauthorized access could be granted to users outside the network.

4. To improve data security, we recommend that:

- data security policies, procedures and standards be developed for District agencies. Each agency should conduct a risk analysis for each EDP and telecommunication facility and the applications being processed. Based on the risk assessment, standards and procedures concerning the use of applications, ownership of data files, establishment and removal of userIds, and procedures to monitor security events on a weekly basis be developed and implemented.
- an evaluation of mainframe system access control software should be performed at all sites to ensure critical parameters have been appropriately set, superuser authority properly granted, and unused userIds removed.
- the data center sites evaluate purchasing and installing the necessary software to control access to on-line transactions for all critical applications processing sensitive data.
- the data center sites evaluate purchasing and installing the necessary equipment and software to authenticate authorized users remotely dialing into the system and those attempting to access system resources via the Internet.

Changes to Application Software

At several District agencies, controls over changes to application programs are weak. A lack of such controls prior to implementation could result in malicious and/or erroneous code leading to fraud, extended outage of processing, and increased maintenance time. Examples of these weaknesses include:

- DFR has a significant backlog of change requests primarily due to a lack of manpower and increased responsibilities. Although DFR does utilize a change control application, the current processes expose modified applications to unauthorized changes subsequent to approval and prior to transfer into the production environment.

- DOES is currently developing a new Unemployment Insurance program and therefore the number of user requests has the potential to increase significantly. Once the system is operational, changes should be subjected to controls as stringent as those used in its original development. If there is no control over system changes, the benefits originally gained by controlling the system's development are lost as subsequent changes are made.

- Public Schools and DOES have not implemented a standard change control process. Currently, Public Schools and DOES programmers responsible for making changes also implement the changes into the production processing environment.

- Lottery Technology Enterprises (LTE), a contractor, currently keeps records of software change requests when the requests are submitted to LTE from the Lottery. However, the status of software change requests is not systematically tracked by the Lottery or LTE beyond the recording of the initial project data. Further, the acceptance testing performed by Lottery of major enhancements to the On-line Gaming Systems is not documented.

5. To improve controls over program changes, we recommend that:

- DFR obtain additional resources internally or contract additional programmer and Quality Assurance personnel to implement and use change control software
- DOES and Public Schools establish, document, and implement formal policies and procedures to better control program changes
- the Lottery establish, document, and implement formal policies and procedures to track change requests to ensure that requests are performed timely, that requests are prioritized to meet user needs, and that the vendor meets specified performance criteria

Segregation of Duties

Inattention to segregation of duties allows employees the opportunity to circumvent controls. Currently, programming personnel with access to source code and knowledge of the processing environment can insert and execute unauthorized transactions during production batch processing at several agencies. Furthermore, they possess the ability to submit on-line transactions. This could result in attempted fraud, diversion of funds, and execution of code with malicious intent. Segregation of duties is weak at SHARE, OFIS, UPPS, DFR, DOES, DC General and UDC. Examples of these weakness include:

- During 1995, critical individuals responsible for supporting the Hospital's information systems environment, including the CHART Network System (CNS) terminated employment. These individuals have not been replaced. Furthermore, the remaining staff at the Hospital have not been provided additional training to enhance skills required to support the information system processing environment.
- Some development support personnel, including the DFR's data security administrator (DSA), possess update access to production data sets. The DFR DSA is often responsible for making changes to the application source code based on user requests.
- DOES OMIDS systems analysts who makes changes to the test programs are also responsible for migrating the test programs to the production environment.
- FMS production control is currently the responsibility of one OFIS employee. This employee is also responsible for administering FMS data set access on ACF2 and monitoring violations to those datasets.
- Extended absences of pay system personnel result in the same people performing application change and on-line UPPS data security administration functions that should be segregated.
- The SHARE manager of system support is the backup person responsible for administering data security.
- The UDC systems programmer also performs the functions of a data security administrator. Combining these two incompatible functions, Systems Programming and the Data Security Administrator, is the result of staffing constraints. UDC computer operations use one operator per shift, without any automated job scheduling software. If an individual does not report to work, computer processing for that shift

will shut down. During our review, we noted that the UDC application programmers have full responsibility for programming an application change, testing the change, and implementing the change. Management has few procedures in place to monitor this process.

6. To improve segregation of duties, we recommend that:

- DC General obtain training to ensure personnel are adequately skilled in user system support and network services.
- DFR development staff and the data security administrator's update access to production data be removed.
- the programmer/analyst responsible for supporting FMS and any applications not have access to production batch processing or authority to administer data security.
- DOES and the Pay and Retirement Unit establish procedures that require an independent group or individual to review all mainframe application program changes and migrate the changes from the test environment to the production environment. Application programmer access to the mainframe production code and data should be limited to "read" access.
- UDC provide technical RACF training to the school staff, other than the systems programmer, that currently administer RACF data security.
- UDC and FMS assess the feasibility of maintaining primary and backup computer operators on all shifts. In addition, UDC should purchase and implement an automated scheduling software to assist the computer operators.

At current staffing levels, implementing these controls might cause unacceptable delays in responding to users' change requests. Implementation of appropriate controls may require additional human resources. We recommend that the District evaluate the cost/benefit of facilitating these security measures.

Disaster Recovery Plans

During an extended outage of information system processing functions, vital business operations may be unable to function since critical information is unavailable or inaccessible. This could significantly affect the District's ability to meet users' demands for products and services. Disaster recovery plans and business continuity plans are ways that computer-reliant organizations anticipate shut-downs of computer operations. Such plans are missing or deficient at SHARE, WASUA, Public Schools, DHS, DOES, DC General, Lottery, and UDC.

The lack of contingency planning was recently felt by the WASUA billing and collections department when WASUA was told with little notice to shut down its LAN. WASUA was unable to process any water and sewer billing and collection transactions for over three weeks. That type of shut-down would be unacceptable in, say, a major human services system or at the Lottery.

During power outages to the District's data centers, the computers immediately shut down. Thus, any critical processing that was being performed prior to the power outage would have to be re-executed. This usually results in unnecessary additional costs to the District and confusion over which transactions were posted and which were not. These situations could be averted, however, with the installation of uninterrupted power supply (UPS) and emergency power supply (generator) systems. These systems have not been installed in all District production data processing environments

7. To improve the likelihood of continued processing during a disaster, we recommend that:

- disaster recovery and business continuity plans be completed and tested for all District data centers
- the District assess the feasibility of installing a UPS and EPS system (generator(s)) at all District data centers

Systems Backup

Maintaining copies of systems and data files at off-site locations is particularly important when the physical processing and storage environments are poor. As previously stated, this is the case at the District. Destruction of automated files could result in additional and potentially excessive recovery time if any data centers were to be destroyed. We found several violations of good backup procedures, including:

- Public Schools tapes have not been stored offsite for the past four months. Also, the Public Schools tapes that have been sent offsite are archived indefinitely.

- DHS incremental backup tapes may not be rotated offsite if the DC Government courier is unavailable.

- DOES nightly backup tapes remain onsite - only the weekly full volume backups are rotated to an offsite storage location.

- DC General full volume backups of the Tandem mainframe processing environment remain onsite until the next full volume backup is performed. Furthermore, the backup tapes of DC General's IBM RISC 6000 and Data General processing environment are never rotated to the offsite storage location.

- UDC performs full system backup at the end of every month. However, these backup tapes are not sent to an offsite storage location until the middle of the following month.

8. To improve systems backup procedures, we recommend that:

- Public Schools locate an alternative offsite storage facility. Potentially, another District data center could provide an adequate alternative until funds become available for an offsite storage contractor
- DHS contract with its offsite backup tape storage vendor (DataBase) for weekday pickups of the incremental backup tapes
- DOES rotate the most current backup tapes to the offsite location
- DC General rotate the most current backup tapes of the Tandem mainframe, IBM RISC 6000 and Data General to the offsite location
- UDC require the rotation of full system backups to the offsite location the following day

Good Taxes Receivable Information Is Essential to Improving Collection Results

The Department of Finance and Revenue (DFR) maintains all tax revenue records of the District. The two largest DFR systems are the Business Tax Information System (BTIS)

and the Individual Income Accounts Receivable System (IIARS). During our audit, we saw several ways to keep better records and audit trails. Our detailed findings follow.

BTIS

At year-end, BTIS reflected many taxes receivable balances that proved to be erroneous.

Credit Balances

At year-end, BTIS reflected over $58 million of erroneous accounts receivable credit balances that had built up in the system since the late 1980's but had not been corrected. Credit balances normally indicate an amount that the District owes business taxpayers. However, upon investigation, we learned that these amounts were largely not owed to taxpayers, but were the result of either incorrect posting or a lack of posting of transactions into BTIS. Details follow.

We noted several instances where employees processed tax collections using a Remittance Slip 60; however, the corresponding receivable had not been entered into BTIS. This caused the taxpayers' files in BTIS to reflect overpayments. The system shortcoming in this instance is that BTIS records a liability back to the taxpayer if it cannot find the receivable in the system at the time of collection of taxes.

We noted several instances where apportionment factors from Corporate Franchise Tax and Unincorporated Franchise Tax returns were entered incorrectly into BTIS. Apportionment factors are used to determine the amount of a corporation's net income that pertains to business conducted in the District. The factors are calculated by the taxpayer on the tax return by adding a payroll factor, sales factor, and property factor of a corporation and dividing by three. However, only one or two of the factors are relevant to some corporations. In these cases, BTIS still divides by three, distorting the apportionment factor and the related taxes receivable. Thus, BTIS revenue and taxes receivable disagree with the amount remitted with the return, and in many cases a credit balance results. The system shortcoming in this instance is that BTIS recalculates the effect of the apportionment rather than relying on the tax form which has been reviewed upon receipt.

We noted several instances where DFR issued valid refunds to taxpayers; however, the refund was not posted timely to BTIS. One of the reasons for this is system "Overflags". An overflag is a data field on the BTIS Accounts Receivable Summary screen. If the overflag data field has a 1 in it, a refund transaction will be rejected in BTIS, even though the refund has already been paid. The Data Systems Administrator (DSA) originally put the overflag in the Accounts Receivable Summary screen to let the DFR auditor know that the account had an overpayment greater than $25,000 and should be looked at in detail prior to payment. However, over time the overflags have not been removed even after investigation, so they are no longer a control but a hindrance.

9. We recommend that:

- DFR consider replacing BTIS with a more workable state business tax system;
- DFR provide training sessions to employees in the mechanics of BTIS;
- DSA remove the overflag from BTIS;

- DSA review the apportionment factor program and eliminate or simplify it; and

- DFR review all BTIS credit balances to ensure they are valid credits.

Debit Balances

We also found errors in the taxes receivable debit balances at year-end. Specifically, over 25% of all confirmations returned stated the accounts receivable balance was incorrect and 40% of all receivables audited were deemed invalid. We noted various causes for these shortcomings.

For example, the DFR collections division processes cancellations; however, the cancellations are not updated in the system in a timely manner, and sometimes not at all. Consequently, the accounts receivable balance is overstated by stale accounts that have not been written off.

10. We recommend the system cancel accounts receivable in a timely manner and that supervisors review all accounts deemed erroneous. This will more accurately state the receivable balance at year end.

Collection Efforts

We noted a large number of taxes receivable that were older than the statutory write-off period, in most cases 2-3 years depending on the tax type. Currently, the computer system is not purging old records because the write-off dates are not entered into the tax systems. Therefore, taxes receivable are overstated by old accounts that can hamper collection efforts by drawing attention away from viable account balances.

We obtained addresses of delinquent taxpayers from the BTIS and the IIARS systems. We then sent confirmation requests to a sample of these taxpayers to test taxes receivable. Over 27% of our confirmations were returned due to insufficient addresses or expired forwarding orders. This is an unusually high level of "bad addresses". Upon investigation, we learned that DFR received over 175,000 pieces of returned mail (of all types) during 1995, most of which the agency was unable to investigate due to manpower constraints. Clearly, DFR must have good addresses of its taxpayers to enforce collection.

11. We recommend that:

- DFR staff work with the post office, use phone books, and otherwise follow up on returned mail on a regular basis
- DFR place a flag on the taxpayer's account to prohibit any balance update without an address update
- the system be corrected to purge records that have expired due to the statute of limitations in a timely manner

Tax Support

We noted that tax returns were not readily available or easily accessible due to an apparent poor filing and tracking system hampered by 1) a records department that is not large enough to accommodate all of the files, 2) shortness of qualified staff, and 3) lack of the

necessary resources to properly track off-site returns. Thus, the potential exists for individual tax returns to be misplaced.

We noted that a taxpayer's record of payment was not easily accessible. Specifically, we observed one instance where a person claimed to the tax help center that they paid their taxes. However, DFR was unable to investigate this payment because DFR does not currently keep individual taxpayer files, and because of the way collections are recorded in DFR's systems. A transaction number is assigned to each collection, and remittance advices are filed by transaction numbers. If a collection was posted timely, DFR can determine the transaction numbers used that day, find the documentation supporting those transactions, and locate the remittance. However, DFR is delinquent in posting most collections, so DFR does not know what transaction number was used to post a particular collection. The only way to determine if a taxpayer has paid is for the taxpayer to bring in the canceled check. Generally, DFR requires the taxpayer to provide a canceled check; otherwise, there is no further investigation.

12. We recommend that:

- DFR reengineer its tax return filing process and provide more on-site space for the central files department

- DFR reengineer its method of capturing and filing taxpayer payment data to facilitate customer service and collection investigations

Recording Obligations Promptly Is Essential for Budgetary Control

Governmental accounting systems, including FMS, differ from commercial accounting systems in at least one major way: governmental accounting systems integrate the government's annual operating budget into the system itself. This permits timely comparison of actual results to the budget at any time during the year. At the District, this system is ineffective in that the District generally does not record encumbrances into FMS timely, if at all. Encumbrances should be recorded at the time the District commits funds by signing a contract, approving a purchase order, or even instructing a vendor to proceed.

We found two primary ways this situation occurred. Specifically, we found situations where goods and services were procured by the District:

- Without a Contract
- After Expiration of the Contract

We discuss these two situations further in the following paragraphs.

Goods and Services Procured Without a Contract or Sufficient Contract Documentation

The District has acknowledged that it frequently obligates funds following the delivery of services, the contract execution date, and sometimes even the expiration of the contract's award period, and established unique accounting procedures (using X, Y, and Z vouchers) and controls to determine the magnitude of these inappropriate procurements in 1995. The District identified approximately $60 million of procurements in the second half of 1995 where the District did not record the full amount of the contract obligation prior to the contract award.

When the obligation (encumbrance) of monies occurs late in a procurement, there is a good possibility of initiating additional contracts based on an inaccurate assessment of available budget authority. Further, this situation severely hinders the District in its closing of its books at year end. Specifically, the District must rely on the agencies to submit invoices for posting before the District can know its true "bottom line". The posting of invoices can have a major effect on the bottom line from the initial close of FMS to the financial statement results. This was the case in 1995, when the District's year-end accounts payable balance went from $150,289,000 in the October 15, 1995 close to $360,666,000 in the financial statements.

When the District relies on the posting of invoices to monitor its bottom line, invoices must be submitted and posted to FMS quickly. This often does not happen at the District. For example, we noted three invoices aggregating over $10,000 in a non-sample test where the invoice dates and service delivery dates were before fiscal 1995, but the invoices were not entered into FMS until after October 15, 1995.

13. We recommend that:

- Procurement/contracting officers provide estimates to agency financial officers of proposed contract costs at the earliest point possible, but never later than the date of contract initiation. This estimate should then be used by the financial officers to initially obligate budget authority for major contracts. Upon contract award, the obligated amount should be modified to reflect the contract balance. Then throughout the course of the procurement, the obligated amount should be modified to reflect best estimates of the fiscal year's contract costs.

- The District offer training courses for procurement and financial personnel in the area of District procurement laws and regulations.

- The District enforce existing policies related to willful abuse of procurement procedures at every level.

- The District analyze its current decentralized procurement structure to determine if it meets the District's needs. Whether the District decides to retain its decentralized procurement controls or establish one or more central functions, the District should then implement a District-wide procurement system which handles procurement actions quickly and requires the identification of all relevant information including the procurement method.

The likely benefits of implementing the above recommendations include:

- greater adherence to District procurement laws and regulations, since many agencies told us the procurement processes take far too long, and

- more accurate analysis of unexpended budget authority at both the agency and District-wide levels.

Goods and Services Provided After Contract Expiration

The District's FMS system allows an agency certifying officer, during the preparation of a voucher, to designate any portion of the voucher as a retainage. At year end, retainage amounts are reflected in the District's CAFR as liabilities, and they are charged against the current year's budget.

During our testwork, we noted one instance (in a non-sample test) of a procurement where the services were not performed or the goods delivered at year-end. Under District policy, this voucher should not have been charged to the 1995 budget, because the District does not allow year-end encumbrances. However, the majority, if not all, of the voucher was placed in retainage, which permits the agency to charge the 1995 budget, similar to an encumbrance. This was an inappropriate use of retainages.

The District's Financial Management System does not produce periodic retainage detail reports. By special request of the Controller's Office, a report of daily retainage activity was being generated and provided to them from approximately March through September 1995.

14. We recommend that the District modify FMS to generate a retainage detail report monthly. This report should identify the opening balance, current period postings and ending balance of each retainage in FMS. The report should then be reviewed by each agency to ensure that long outstanding balances have been eliminated and amounts are not being inappropriately retained and carried to subsequent fiscal years.

Through the implementation of the procedures noted above, the District will be able to more accurately identify unused budget authority both during the fiscal year and at year-end

Adhering to District Procurement Policies is Essential to Control Fraud, Waste, and Abuse

We noted several instances of misuse of expedient procurement methods and violation of District policies intended to control procurement. Specifically, we noted the District:

- Using Emergency Contracting Procedures Improperly
- Using Sole Source Contracting Procedures Improperly
- Using Improperly Prepared Procurement Documents to Avoid District Procurement Limits

We address these three matters in the following paragraphs.

Emergency Procurements

Each emergency contract less than $25,000 receives a Department of Administrative Services (DAS) review following execution. Each $25,000 or greater contract receives DAS review prior to execution.

We specifically searched for instances where procurement officials issued successive emergency procurement contracts. There were 20 emergency procurements in our sample of 247 procurements. Of the 20, 11 met these characteristics. We then discovered 1 more

such item in another test. Therefore, these procurement officials were using emergency procedures to meet long-term needs. In these cases, the procurement officials did not initiate a non-emergency procurement action when they issued the original emergency procurement.

We also searched for instances where procurement officials issued emergency procurement contracts because of inadequate planning and administrative delays. There were 20 emergency procurements in our sample of 247 procurements. Of the 20, 12 met these characteristics. We then discovered 1 more such item in another test.

Also, we asked for a list of all District emergency procurements during the year and were told that no such list exists.

15. We recommend that in the short-term the District require agencies to prepare quarterly listings of emergency procurements and submit these lists to the Department of Administrative Services for compilation and the Office of the Inspector General for review. A long-term goal should be to institutionalize this process so that the list can be prepared by the system.

The benefit of implementing this recommendation would be to allow District management to monitor and manage District-wide compliance with emergency procurement regulations. This list would also be a resource for the Inspector General to identify and investigate apparent abuses.

Sole Source Procurements

We specifically searched for instances where contracting officers authorized the use of sole source procurement procedures even though the justification did not meet the District's criteria. There were 31 sole source procurements in our sample of 247 procurements. We identified 2 such instances. We also found 10 instances in another test where the contracting officer could not provide any documentation for why they used sole source procurement procedures.

Similar to emergency procurements, the District does not maintain a District-wide listing of all sole source procurement contracts. Each sole source contract greater than $10,000 but less than $25,000 receives a Department of Administrative Services (DAS) review following execution. Each $25,000 or greater contract receives DAS review prior to execution.

District management has no sources other than the agency officers responsible for contracting to identify a complete list of sole source procurements without performing an internal analysis of all the agencies' procurement actions.

16. We recommend that in the short-term the District require agencies to prepare quarterly listings of sole source procurements and submit these lists to the Department of Administrative Services for compilation and the Office of the Inspector General for review. A long-term goal should be to institutionalize this process so that the list can be prepared by the system.

The benefit of implementing this recommendation would be to allow District management to monitor and manage District-wide compliance with sole source procurement regulations. This list would also be a resource for the Inspector General to identify and investigate apparent abuses.

Improper Procurements

We noted 6 instances (in a non-sample test) of financial officers recording a single procurement into FMS as numerous transactions ("splitting") to avoid required procurement procedures. These findings could be categorized as follows:

(a) In 1 instance, the "splitting" occurred to obtain goods or services without use of a purchase order or contract and nevertheless provide for vendor payment through the miscellaneous/direct voucher (VMSE) process.

(b) In 1 instance, the "splitting" was used to stay within the agency's small purchase authority.

(c) In 2 instances, the "splitting" occurred to stay within the agency's contracting authority.

(d) In 1 instance, the "splitting" occurred to utilize the miscellaneous/direct voucher procurement process in lieu of required competitive bidding procedures.

(e) In 1 instance, the "splitting" occurred to stay within the agency's small purchase authority to obtain blanket purchase orders.

These findings violate many District procurement regulations.

17. We recommend that, while the District is considering changes to its procurement systems and procedures, the Inspector General continue to conduct procurement tests and raise the findings to the Authority for consideration.

Review and Approval of Disbursements is the Final Control Over Funds

The District uses manual checks too frequently, and sometimes for the purpose of avoiding controls.

Disbursements Improperly Made to Vendors Subject to IRS Tax Liens

To prevent payment to vendors with various problems (i.e., state or federal tax liens and/or product/service problems), the District maintains a file (the Halt Payment File (HPF)), of vendors which were assigned a halt payment code. When checks are scheduled through the District's automated payment scheduling process, each check's payee is compared to the HPF on that date. If a match occurs, the check is rejected to an edit listing and not paid. The HPF is perpetual and, therefore, contains only current halt payment information. There is no historical report run during the year and, therefore, no comprehensive history of a vendors' halt payment status during the year.

Our audit disclosed six instances of manual checks disbursed in 1995 to vendors which had IRS tax liens against them sometime during 1995. We attempted to determine if the checks were prepared during the effective period of the liens, but could obtain specific evidence in only one of those cases. As to that one, we determined that over $2.8 million was disbursed to the vendor during the effective period of the lien. The other five instances remain unresolved.

Our audit also disclosed one instance of a feeder system check prepared as payable to a vendor when the vendor was under tax lien. Specifically, this vendor was paid $38,626 in 1994; and $2,035 in 1995 while under IRS lien.

Our recommendation is provided under the next comment.

Manual Checks

The District's Treasury department processed over $75 million of manual checks in 1995. The District uses Manual Check Request forms to schedule approved manual checks for printing. Each Manual Check Request form allows for numerous checks (up to 16) to be scheduled for printing and frequently more than one form is processed per day. These forms are to be signed at the bottom by a Treasury official indicating review and approval of the list. When the checks have been prepared, the forms are filed loose in manila folders. We noted several internal control shortcomings in the area of manual checks, including:

- we selected 14 forms for testing, and 6 were unsigned

- in reviewing forms from throughout the year, we noted that Treasury could not locate the forms for April 1995 to July 1995

- the forms are not sequentially numbered beyond a job and batch number designation, nor is there a readily accessible log of manual checks. We requested SHARE to print a list of manual checks, which we waited a week to receive

- neither the manual check payment process nor the "feeder" system payment process are subjected to the halt payment edit check noted above

18. We recommend that manual check processing be stopped or severely limited. Given the existing lack of controls over these checks, we conclude that they offer too great an opportunity for fraud. We make this recommendation considering that automated checks are typically processed within two days of Treasury receipt.

As Available Funds Diminish, Control of Fixed Assets Grows in Importance

The personal property balances of Public Schools, DPW, Corrections, DHS, DOES, UDC, and WASUA per FMS are not supported by personal property ledgers that provide details of individual assets owned. In our testing, we found that for certain of these agencies:

- the Fixed Asset System does not include details of individual personal property assets owned, but rather the total personal property balance carried forward from the prior year plus current year additions minus current year deletions. The details of additions and deletions are not entered into the system, however, so the balance carried forward is simply one amount. For one agency, even the additions are an estimated balance.

- the amounts in the Fixed Asset System are not reconciled to the amounts per FMS. Management at one agency provided a Fixed Assets/Accountable Property Report which reported the total personal property significantly less than the FMS balance at year-end. This was because the Fixed Assets/Accountable Property Report does not capture all personal property additions.

- it has been at least two years since any inventory of fixed assets has been performed.

- there are no established procedures to ensure that assets that are obsolete are periodically identified and properly recorded.

19. We recommend that the District:

- develop policies and procedures to ensure that fixed assets are properly controlled. Management should assign responsibility to an employee to ensure that the policies and procedures are properly implemented and are working as intended.

- perform cycle counts of fixed assets to determine the existence and obsolescence of the fixed assets. Management should ensure that the fixed assets per the physical counts are reconciled with the Fixed Assets System. Additionally, all necessary adjustments should be entered into both the Fixed Assets System and FMS.

- periodically reconcile the detailed property records per the Fixed Assets System to FMS.

Human Services Payments Must be Well-Supported to Avoid Disallowed Costs

ATP and Food Stamps

The Department of Agriculture requires that food stamp disbursing vendors prepare a Food Coupon Accountability Report (FNS-250) monthly to report food stamp issuance and inventory. In addition, DHS is required to verify the accuracy of the FNS-250 and monthly prepare a Food Stamp Program Reconciliation Report (FNS-46).

The District handles these responsibilities as follows: Monthly, the Payments and Collections Division - Food Stamp Control (FSC) receives all of the redeemed Authorized-to-Participate (ATP) cards, along with a completed federal form 250, from the distributing vendors. FSC is responsible for agreeing the beginning balances of the food stamps reported on the form 250 with the ending balance reported on the prior month's report. In addition, FSC must reconcile the redeemed ATP cards, in both quantity and dollar value, with the distributed food stamp booklets, as reported on the form 250. If there are any deficiencies noted in the reconciliation process, the disbursing vendor is responsible to make up the dollar value of the difference. Previously, DHS had an agreement with a third party contractor to perform these reconciliations. DHS had problems with the contractor and is now supposed to be performing the reconciliation themselves.

We noted that the reconciliation of ATP cards and food stamp booklets distributed is not being performed monthly. In fact, DHS has not performed the reconciliations for approximately one year.

Noncompliance with these reconciliation procedures could result in erroneous reporting to the federal government of the value of the food stamps distributed by the agencies, resulting in disallowed costs and penalties against DHS for the erroneously reported food stamp costs.

20. We recommend that DHS take the necessary actions to ensure that the reconciliations of the food stamps booklets is brought up to date and performed on the required monthly basis in the future.

AFDC Files

We selected 59 Aid to Families with Dependent Children (AFDC) files for testing. Of the 59 selected:

- two of the files did not include recent verifications of wages and assets
- one file did not include evidence that the recipient had a social security number
- one file did not include evidence that the recipient was a U.S. citizen or evidence of the recipient's residence
- two files had outdated recertification forms and eligibility was therefore unable to be determined
- one file contained an overpayment.

During our review of the AFDC files, we noted that the overall appearance of the AFDC files is extremely poor. The files are not kept in neat order, and there are often loose and improperly filed documents. The hand written narratives that are prepared during the application process that provide a history of the case as well as document the eligibility or ineligibility of the recipient are often illegible. The AFDC Monthly Eligibility Reporting and Income Report which is supposed to be distributed to the recipients has not been distributed for over a year.

21. We recommend that the District improve its adherence to requirements of the AFDC program.

Improper documentation and benefit payments may result in a disallowance of costs by the federal granting agency.

Other Reportable Conditions

Management of Medicaid Costs is Essential to Management of the General Fund Bottom Line

The District participates in the Medicaid program, incurring approximately $800 million in expenditures annually, approximately half of which is reimbursable by the federal government. Several areas of recordkeeping related to Medicaid program information could be improved:

- Progress payments to cost reporting entities are not reflected as a reduction of the Medicaid liability,
- Adjustments to previously submitted cost reports are not reflected as a change to the liability at the time the adjustments are received,
- Analysis of the cost trends in in-patient hospitals, long-term care facilities, and intermediate care facilities is not available, and
- Analysis of the differences between the cost report originally submitted by a cost reporting entity, the audited cost report amount calculated by DHS, and the final cost report settlement amount is not available.

Much of this information is available at the Commission on Health Care Finance; however, the information is not provided to the Office of the Controller on a timely basis.

We also noted several areas of the administration of the Medicaid program which could be improved:

- No formal plan outlining which cost reporting entities are to be audited has been developed. Audits are performed as staff are available.
- Significant aged amounts relating to prior years' settled cost reports have not been collected or paid. For instance, one long-term care facility owes the District approximately $5 million for overpayments received in fiscal years 1988 through 1990.
- No formal procedures exist for gathering the information which needs to be provided to the Office of the Controller on a monthly basis related to the Medicaid accrual.
- The Office of the Controller lacks adequate personnel to analyze the Medicaid accrual on a monthly basis.

As a result of inadequate expertise and resources, DHS has hired an outside contractor to assist in the preparation of the annual Medicaid liability reconciliation. As a result of the Controller's inability to monitor the Medicaid liability throughout the year, the year-end accrual adjusted the District's 1995 bottom line by $20,479,000.

22. We recommend that the Office of the Controller be allocated the resources to analyze the Medicaid accrual on a monthly basis. We further recommend that specific persons within the Office of the Controller be assigned responsibility for recording all changes to the Medicaid accrual. This group would also be responsible for developing a database of information to identify and anticipate Medicaid cost trends.

We also recommend that DHS develop a formal plan which outlines how the limited resources assigned to cost report audits will be utilized during the year. This plan should be updated on an annual basis.

Finally, we recommend that a plan be developed to settle all outstanding receivables to DHS from settled cost reports.

As Available Funds Diminish, Control of Supplies Inventories Grows in Importance

DOES, DPW, Corrections, Police and WASUA do not have good control over their annual physical inventory counts. The inventory count directions were not consistently provided, not all inventory was subject to count, there was no supervisory review, and there was no documentation of the procedures to identify obsolete or overstocked inventory. Also, not all inventory records are updated timely, in the case of DOES since February 1995.

23. We recommend that the District require the stock room staff to identify overstocked or obsolete inventory at least quarterly. The items should be noted and approved by management prior to procurement of additional inventory. Following physical inventories, stockroom staff should update inventory records to reflect the count. Shortages should be investigated and adjustments to inventory records should be approved by management. Management should also periodically review all inventory cards.

Mr. DAVIS. Thank you very much. We're going to be voting in just a couple of minutes, so I'm going to take a recess. We may have a series of votes, so I'm going to discharge this panel and allow you all to answer written questions, if there be any objection to that.

Mr. BARRY. Mr. Chairman, let me make one final point on this refinancing the deficit. It really behooves all of us——

Mr. DAVIS. Well, that's what I was going to get to, Mr. Mayor. Let me just say I think we all recognize we want to find a way to do that.

The original legislation, because of the limits we have on borrowing in terms of scoring, limit our ability to do this, and that's why it was not in the original legislation.

We wanted to find a way for better borrowing capacity. We're going to go back and re-explore this. This city needs money.

I think, Mr. Hummel, you and Mr. Williams would agree, and please, if you don't, let me know, that we've got to pay this cash down, that the Federal payment alone is not going to cut it in terms of getting through the next 6 months. Is that fair?

Mr. WILLIAMS. That's correct.

Mr. BARRY. Mr. Chairman, the point I was going to make, though, I've just read Mr. Brimmer's statement, and the Control Board ought to stop criticizing what we didn't do right and make a proposal of their own.

Mr. DAVIS. Well, I think at this point Congress has some culpability in this in terms of not having passed the budget in time.

But more importantly, this cash-flow problem is one that we're going to have to face. I may ask some additional questions on that in terms of written questions to you, but I would like to work with Mrs. Norton and Chairman Walsh and the leadership in both Houses to see how we can address this.

It's very difficult to come up with plans with any kind of vision, or innovation, when you're struggling to pay your bills and backing everybody up, including a number of vendors who live out in the suburbs, quite frankly.

This is hitting across the region, and it's hurting the District's ability in its procurements to attract people here who can provide quality services at a cheaper price.

So if we can agree that's what we have to do, we'll work with the administration and with the leadership to do that.

Ms. Norton, let me give you a couple minutes before I have to leave. Would you second that?

Ms. NORTON. I would second that. We're going to have to try to make it happen. We've got to find a way to make it happen.

The District is digging itself deeper into a hole. This is irrational, and I think we can find a way out of the scoring problem.

Mr. DAVIS. If we can do that through very quick legislation, we will not have to go the appropriation route.

Mr. BARRY. Mr. Chairman, I think you'd agree with me this is a sense of urgency, because the Congress is going to be in and out so much, and we need to try to find a way to do this quickly in terms of authorization of it.

Mr. DAVIS. Mr. Mayor, we want to get you your $200 million or some that are owed you right now before we leave tomorrow or Saturday or whenever we leave.

Then we can, over that 2-week period, explore with the administration and the Treasury Department because they were the ones who make the rulings on scoring, how we may be able to get you some borrowing to pay down some of the rest of these bills over the short term.

If we have to make it a strict appropriation and if it scores, it becomes a much more difficult political feat.

Mr. CLARKE. Mr. Chairman——

Mr. DAVIS. Mr. Clarke, I just have 1 minute. Go ahead.

Mr. CLARKE. I understand that part of the problem is we don't have a plan, a budget or a plan which is a prerequisite to us being able to borrow.

Mr. BARRY. That's not the problem, Mr. Clarke.

Mr. DAVIS. We want to find a way of working with you, but we don't need to sketch it out here. I just want to show the Chair's willingness and I know Mrs. Norton's willingness to work with you because we've heard now from people, not just the insiders, the Mayor and the Council, but from Mr. Williams. We've heard from your accountants.

Anybody looking at this objectively and getting the kind of calls we're getting on payments recognizes that this is something we need to address.

We're happy to have had this opportunity to air that. Mr. Hummel, let me thank you for bearing with us, and I think your statement is a very important one.

Mr. Williams, you as well. Don't take the lack of formal questions here to be in any way not recognizing that your counsel here is very, very important to our deliberations.

Mr. Mayor, we thank you. Chairman Clarke, thank you for your statement and insights as well, and I will at this point, without objection, dismiss this panel.

We will recess for probably 20 minutes to a half an hour, then hear from Dr. Brimmer and the Control Board and, of course, the inspector general after that. So the meeting will be in recess.

[Recess.]

Mr. DAVIS. We will return to order. I apologize. We had a series of votes. I think everybody is still trying to figure out what's going on.

There were appeals of the ruling of the Chair. There were procedural motions. There was the first vote we have had on whether to waive the rule against unfunded mandates. There was a lot of procedure, and I apologize for the delay it has caused.

I know we have our inspector general here who has other things to do, and I'd be happy to hear Ms. Avant at this time, if she'd like to come forward. Angela, you're still under oath.

Ms. AVANT. I recognize that. Thank you.

Good afternoon again, Chairman Davis, Members of the House Subcommittee on the District of Columbia.

I am pleased to appear before you today regarding my plans to assist the District of Columbia government in correcting and/or improving deficiencies in operations, financial controls, practices and

procedures, enhancing accountability and, above all, ensuring compliance with laws and regulations governing the activities, conduct and performance of city agencies, employees and contractors.

As you are aware, the 1995 annual financial audit reports clearly identify the number of internal control weaknesses and areas of potential opportunity for the occurrence of fraud, waste and abuse.

To assist the city in addressing these matters, the Audit Plan of the Office of Inspector General will focus enhancing or establishing systems of accountability, enhancing fiscal integrity, enhancing fiscal and operational efficiency and identification of fraudulent activities and correction or elimination of the deficiencies which allowed the activities to occur and not be detected.

Based on the knowledge I have obtained during the past 2 months, the key areas of concern initially are eliminating or attacking fraud, waste and abuse and cost containment and revenue enhancement.

Accordingly, our activities for the next 18 months will be prioritized based on the premises stated. The audit plan, which is being fine tuned and will be shared with you upon completion, will include the investigation of areas which are vulnerable to fraud, waste and abuse and eliminating the opportunity for occurrence through strengthening of internal controls.

In addition, we will perform audits or reviews of areas which represent significant cost centers for the city to assist the District government in enhancing controls over costs, streamlining or re-engineering processes and eliminating nonvalue-added tasks.

We will also perform audits and reviews of areas which represent revenue enhancement opportunities. For example, the tax assessments, billings and collections process at the Department of Finance and Revenue.

And last, we continue to perform statutorily required audits, reviews of violations of laws and regulations noted during the fiscal year 1995 audit and investigations.

I believe the results of the comprehensive investigations and audits to be conducted by my office will clearly provide the guidance and direction needed to correct deficiencies noted in the fiscal 1995 and previous audits and other allegations of fraud, waste and abuse.

However, in an effort to effect long-term change, there is more work to be done, work that is not focused on processes, systems and technology but on the most important aspect of the government—its employees.

The employees of the District of Columbia government must understand at all levels that employment is not a gift. It is a privilege. And with that privilege comes certain responsibilities and obligations.

We must require employees be accountable in discharging their responsibilities and obligations, but we must first ensure that employees understand their roles and responsibilities and are equipped with the essential tools and skills to perform in an effective and efficient manner.

Clearly, one area of responsibility relates to the protection of the government's assets. The Office of the Inspector General will be developing a fraud, waste and abuse deterrence education program.

This program will include the creation of a code of conduct for District government employees, ethics training, the reintroduction of a revamped OIG hotline and awareness of the implications of noncompliance with laws and regulations.

The comprehensive operating plan of the Office of the Inspector General will result in the audit, review and investigation of key areas in all aspects of the government's operations during the next 18 months.

The plan includes the collaboration with other law enforcement and investigative and audit units to avoid duplication of efforts, to maximize investigative resources and audit coverage and ensure that internal control weaknesses and areas of vulnerability are eliminated.

The plan which I have outlined is aggressive and achievable but only with the right resources. Accordingly, it is critical that the District's budget be passed in order to execute the program I described. Anything less is a violation of the very laws which I have been even trusted to oversee.

Further, the government's financial condition only suffers more. However, I do remain optimistic that this situation will change.

I recognize the challenges and opportunities which await, as I am experiencing them firsthand now, but moreover, I look forward to demonstrating that the Office of the Inspector General is an independent value-added component of the District of Columbia government's operations.

Our motto and creed will be integrity is the bottom line to achieving fiscal recovery.

Thank you, and I'd be happy to answer any questions you may have.

[The prepared statement of Ms. Avant follows:]

ANGELA L. AVANT, CPA, INSPECTOR GENERAL

OF

THE DISTRICT OF COLUMBIA

GOOD AFTERNOON, CHAIRMAN DAVIS AND MEMBERS OF THE HOUSE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO GIVE TESTIMONY REGARDING MY PLANS TO ASSIST THE DISTRICT OF COLUMBIA GOVERNMENT IN CORRECTING AND/OR IMPROVING DEFICIENCIES IN OPERATIONS, FINANCIAL CONTROLS, PRACTICES AND PROCEDURES, ENHANCING ACCOUNTABILITY, AND ABOVE ALL ENSURING COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING THE ACTIVITIES, CONDUCT AND PERFORMANCE OF CITY AGENCIES, EMPLOYEES, AND CONTRACTORS.

AS YOU ARE AWARE, THE 1995 ANNUAL FINANCIAL AUDIT REPORTS CLEARLY IDENTIFIED A NUMBER OF INTERNAL CONTROL WEAKNESSES, AND AREAS OF POTENTIAL OPPORTUNITY FOR THE OCCURRENCE OF FRAUD, WASTE AND ABUSE. TO ASSIST THE CITY IN ADDRESSING THESE MATTERS, THE AUDIT PLAN OF THE OFFICE OF THE INSPECTOR GENERAL WILL FOCUS ON:

- o ENHANCING/ESTABLISHING SYSTEMS OF ACCOUNTABILITY,
- o ENHANCING FISCAL INTEGRITY,
- o ENHANCING FISCAL AND OPERATIONAL EFFICIENCY,
- o IDENTIFICATION OF FRAUDULENT ACTIVITIES, AND CORRECTION/ELIMINATION OF THE DEFICIENCIES WHICH ALLOWED THE ACTIVITIES TO OCCUR, AND NOT BE DETECTED.

BASED ON THE KNOWLEDGE I HAVE OBTAINED DURING THE PAST TWO MONTHS, THE KEY AREAS OF CONCERN INITIALLY ARE:

- o ELIMINATING/ATTACKING FRAUD, WASTE, AND ABUSE
- o COST-CONTAINMENT AND REVENUE ENHANCEMENT.

ACCORDINGLY, OUR ACTIVITIES FOR THE NEXT 18 MONTHS WILL BE PRIORITIZED BASED ON THE PREMISES STATED ABOVE.

THE AUDIT PLAN, WHICH IS BEING FINE TUNED AND WILL BE SHARED WITH YOU UPON COMPLETION, WILL INCLUDE THE INVESTIGATION OF AREAS WHICH ARE VULNERABLE TO FRAUD AND

ABUSE, AND ELIMINATING THE OPPORTUNITY FOR OCCURRENCE THROUGH STRENGTHENING OF INTERNAL CONTROLS. IN ADDITION, WE WILL PERFORM AUDITS/REVIEWS OF AREAS WHICH REPRESENT SIGNIFICANT COST CENTERS FOR THE CITY, TO ASSIST THE DISTRICT GOVERNMENT IN ENHANCING CONTROLS OVER COSTS, STREAMLINING/RE-ENGINEERING PROCESSES, AND ELIMINATING NON-VALUE ADDED TASKS. WE WILL ALSO PERFORM AUDITS/REVIEWS OF AREAS WHICH REPRESENT REVENUE ENHANCEMENT OPPORTUNITIES, FOR EXAMPLE, THE TAX ASSESSMENTS, BILLING AND COLLECTIONS PROCESS AT THE DEPARTMENT OF FINANCE AND REVENUE. AND LAST, WE CONTINUE TO PERFORM STATUTORILY REQUIRED AUDITS, REVIEWS OF VIOLATIONS OF LAWS AND REGULATIONS NOTED DURING THE FY 1995 AUDIT, AND INVESTIGATIONS.

I BELIEVE THE RESULTS OF THE COMPREHENSIVE INVESTIGATIONS AND AUDITS, TO BE CONDUCTED BY MY OFFICE, WILL CLEARLY PROVIDE THE GUIDANCE AND DIRECTION NEEDED TO CORRECT THE

DEFICIENCIES NOTED IN THE FY 1995 AND PREVIOUS AUDITS, AND OTHER ALLEGATIONS OF FRAUD, WASTE AND ABUSE. HOWEVER, IN ORDER TO EFFECT LONG-TERM CHANGE THERE IS MORE WORK TO BE DONE; WORK WHICH IS NOT FOCUSED ON PROCESSES, SYSTEMS, AND TECHNOLOGY, BUT ON THE MOST IMPORTANT ASSET OF THE GOVERNMENT - ITS EMPLOYEES.

THE EMPLOYEES OF THE DISTRICT OF COLUMBIA GOVERNMENT MUST UNDERSTAND, AT ALL LEVELS, THAT EMPLOYMENT IS NOT A GIFT, IT IS A PRIVILEGE. AND, WITH THAT PRIVILEGE COMES CERTAIN RESPONSIBILITIES AND OBLIGATIONS. WE MUST REQUIRE EMPLOYEES BE ACCOUNTABLE IN DISCHARGING THEIR RESPONSIBILITIES AND OBLIGATIONS. BUT, WE MUST FIRST ENSURE THAT EMPLOYEES UNDERSTAND THEIR ROLES AND RESPONSIBILITIES, AND ARE EQUIPPED WITH THE ESSENTIAL TOOLS AND SKILLS TO PERFORM IN AN EFFECTIVE AND EFFICIENT MANNER. CLEARLY, ONE AREA OF RESPONSIBILITY RELATES TO THE PROTECTION OF THE GOVERNMENT'S ASSETS.

THE OFFICE OF THE INSPECTOR GENERAL WILL BE DE DEVELOPING A FRAUD, WASTE AND ABUSE DETERRENCE EDUCATION PROGRAM. THIS PROGRAM WILL INCLUDE THE CREATION OF A CODE OF CONDUCT FOR DISTRICT GOVERNMENT EMPLOYEES, ETHICS TRAINING, THE REINTRODUCTION OF A REVAMPED OIG HOTLINE, AND AWARENESS OF THE IMPLICATIONS OF NON-COMPLIANCE WITH LAWS AND REGULATIONS.

THE COMPREHENSIVE OPERATING PLAN OF THE OFFICE OF THE INSPECTOR GENERAL WILL RESULT IN THE AUDIT/REVIEW AND INVESTIGATION OF KEY AREAS IN ALL ASPECTS OF THE GOVERNMENT'S OPERATIONS, DURING THE NEXT 18 MONTHS. THE PLAN INCLUDES THE COLLABORATION WITH OTHER LAW ENFORCEMENT/INVESTIGATIVE AND AUDIT UNITS (I.E., FBI, US ATTORNEY, MPD, DC AUDITOR, KPMG PEAT MARWICK, AND GAO) TO AVOID DUPLICATION OF EFFORTS, TO MAXIMIZE INVESTIGATIVE RESOURCES AND AUDIT COVERAGE, AND ENSURE THAT INTERNAL CONTROL WEAKNESSES AND AREAS OF VULNERABILITY ARE

ELIMINATED.

THE PLAN WHICH I HAVE OUTLINED IS AGGRESSIVE AND ACHIEVABLE, BUT ONLY WITH THE RIGHT RESOURCES. ACCORDINGLY, IT IS CRITICAL THAT THE DISTRICT'S BUDGET BE PASSED IN ORDER TO EXECUTE THE PROGRAM I DESCRIBED. ANYTHING LESS IS A VIOLATION OF THE VERY LAWS WHICH I HAVE BEEN ENTRUSTED TO OVERSEE. FURTHER, THE GOVERNMENT'S FINANCIAL CONDITION ONLY SUFFERS MORE. MANAGERS CANNOT ADEQUATELY PLAN, OPPORTUNITIES TO LEVERAGE PURCHASING POWER, THUS DECREASING EXPENDITURES ARE VIRTUALLY NON-EXISTENT, THUS MAKING IT INCREASINGLY DIFFICULT TO ACHIEVE THE BASIC MISSION OF THE GOVERNMENT. HOWEVER, I REMAIN OPTIMISTIC THAT THIS SITUATION WILL CHANGE.

I RECOGNIZE THE CHALLENGES AND OPPORTUNITIES WHICH AWAIT, AS I AM EXPERIENCING THEM FIRST HAND NOW. BUT MOREOVER, I LOOK FORWARD TO DEMONSTRATING THAT THE OFFICE OF THE INSPECTOR GENERAL IS AN INDEPENDENT, VALUE-ADDED COMPONENT OF THE DISTRICT OF COLUMBIA GOVERNMENT'S OPERATIONS. OUR MOTTO AND CREED WILL BE "INTEGRITY IS THE BOTTOM LINE TO ACHIEVING FISCAL RECOVERY."

Mr. DAVIS. Thank you very much. I have some questions, but I'm going to yield first to Mrs. Norton, who has some questions, and then I will proceed.

Ms. NORTON. Ms. Avant, you might want to put on the record a response to a report that you had met with Dr. Brimmer who had some concerns about the time it had taken you to assemble a team—these are concerns that I think we learned from the newspaper, essentially—and about whether there was sufficient independence for your office from the administration.

How would you respond to those concerns, or how have you responded since they were raised?

Ms. AVANT. I have not responded specifically to anyone. Dr. Brimmer and I have talked about them. My response with regard to the speed, if you will, at which individuals have been hired I think goes back to statements that I made earlier in testimony this morning.

One, regarding the confusion, let's simply say, as to whether or not I or the Office of the Inspector General is subject to following personnel, et cetera, rules and regulations of executive branch agencies.

Clearly, as I've indicated in the past, I think we all understand what the intent was. The reality is from an operational standpoint the legislation put the office there, and so now we have to work out how I get around some of the hurdles associated with using those systems.

The other aspect or real reality of this is, again, as I just stated, I do not have any spending authority aside from what was in the original fiscal 1996 budget for this office.

As a result of that, I'm not authorized to hire any additional personnel. As a matter of fact, I am one person over the authorized FTEs today as a result of the District not having a budget.

Ms. NORTON. The delay in the appropriation.

Ms. AVANT. That's correct.

Ms. NORTON. How many people do you have?

Ms. AVANT. I currently have six personnel.

Ms. NORTON. In terms of breaking through the personnel rules—and this is the very same problem the CFO had, and it is a problem.

Ms. AVANT. Yes.

Ms. NORTON. And it's a serious problem. The memorandum that I have now distributed to the people who attended the meeting—it did not involve you because it had more to do with the CFO—contains an item about a response to this question that keeps coming up.

It's very interesting. We keep hearing about the problem with the personnel rules and the procurement rules. The District has the ability to move to change that.

I could understand hearing about the problem with the personnel rules and the procurement rules if it was some citizen, but we'd expect the District to move on this.

Now, Council Member Brazil came to see me to brief me on his own motion about changes in the procurement rules that he himself is proposing.

And he said that he is meeting also with the administration because they had some different view on some part of it.

Meanwhile, in the meeting that was held in my office, the Mayor worked out a way to get personnel, accepted service personnel, to Mr. Williams.

In the same way, I would like to see a similar approach made for your office.

Ms. AVANT. That action has actually already been taken. I initiated a meeting with the director of Personnel and various legal counsel, including counsel from the Control Board to discuss my specific issue.

And legislation has been drafted by the District's Office of Personnel, which includes increasing the total number of accepted service personnel but specifically allocating a number of those slots for my office.

Ms. NORTON. And when do you expect that to happen?

Ms. AVANT. As I understand, at this point in time it is on the city administrator's desk for signing or reviewing to go on to the Mayor.

I've also had a conversation last week—or a meeting last week, I'm sorry, with Chairman Clarke, asking him to sign that legislation once it reaches his office, and he is prepared to do that.

So hopefully, within the next 2 weeks that should take place, as they're scheduled to have an emergency meeting, and that is one of the items they will cover.

Ms. NORTON. You raised, it may have been your prior testimony, the notion of what appears to be in the statute itself the need for certification by your office for short-term cash advances from the Treasury so that your office would have to do and it the Authority would have to do it?

Ms. AVANT. That's correct.

Ms. NORTON. And I believe your point was that this was redundant or could be redundant. I wonder if you think this might be resolved through some kind of agreement between you and the Authority rather than any need to change the statute.

You're absolutely right. The last thing we need is checks checking checks checking checks. Do you believe that there is a way to straighten that out so we can agree that one redundancy can be taken care of right here and now?

Ms. AVANT. I'm certain that I could work with the Authority to discuss that. From a legal standpoint, it is in the legislation, and again, maybe there is always a way to work around things.

Ms. NORTON. I just request that you speak with the Authority staff on that. If there is a need for a change, this is the kind of technical change I think we could attach to something, unless there is some way to do it without even that.

And if you'd let my office know, we'd be very pleased to work with you.

Finally, my last question. I'm not sure I get a sense from your testimony what your own priorities are. I know about the kind of startup things you're doing.

They're very good, the training, the notice to people about what ethical conduct is, but your office faces such a collosal task with all

the allegations here and there about things that are inefficient and the rest.

Where would you, in terms of substantive priorities, count as your couple or three priorities, for example?

Ms. AVANT. Well, I think as I indicated, I see two main priorities, particularly, and I have this segmented in a 6-month period of time and then a 12-month for a total of 18 months, and the first is what I would call the low hanging fruit or, again, as I think I worded it, areas of vulnerability for fraud, waste and abuse, a number of which were identified as a part of the audit.

Investigations are going to occur in terms of looking at some specifics in those areas. In addition to that——

Ms. NORTON. Which areas?

Ms. AVANT. Areas where we think there is considerable opportunity to fraud and abuse.

Ms. NORTON. I don't know——

Ms. AVANT. I didn't want to name any specifics per se to preexpose the plan.

Ms. NORTON. All right.

Ms. AVANT. I'm not attempting to be vague, but there are some specific agencies or processes, if you will, that represent significant opportunities for fraud to occur.

So we're going to be conducting some investigative procedures specifically to identify whether or not there is fraud in those areas and what procedures need to be put in place to eliminate the occurrence of that.

In addition, at the same time we will also be conducting audits or reviews, and those will focus on two areas, areas that represent significant cost centers for the District and, second, areas that represent potential revenue enhancement opportunities such as the Department of Finance and Revenue, which I think is one that is pretty well known.

Ms. NORTON. Well, I can certainly understand your reluctance to parade out a whole set of priorities. I ask about it because in my own dealings with my own constituents there is a great need for people to have a sense that something very specific is happening to bring change to the District.

It puts you and Mr. Williams and the Authority in the worst of all positions, since essentially, the Congress and the state of the District have kept you from doing the things that the District needs to have done simply to be kept afloat.

But at the earliest time when you can, since when you begin to investigate something, it will be known anyway because it will be obvious that you have investigators in there, at the earliest time I think it would be useful for people to know that this new IG is working to do da-da-da-da-da. The more da-da-das that we hear, the more people say, "See, something is going to change," and we're out of the crisis mode, and we're into the change mode.

Ms. AVANT. I totally agree, and maybe I should clarify my response. It's not that I don't intend to make that information known.

I don't want to make it known today because I don't have the formal document complete, and I haven't shared that document with

the Control Board. It's still in the developmental stages or fine tuning stages.

Ms. NORTON. I understand. That is why I say at the earliest possible time.

Ms. AVANT. Yes.

Ms. NORTON. Not that you need do that today. Thank you very much.

Ms. AVANT. You're welcome.

Mr. DAVIS. Let me just ask a couple of questions. I think it's fair to ask what actions have been taken to discipline those persons who have deliberately and repeatedly overspent their budgets.

I think this is a serious violation of the public trust. I'm disturbed to have read accounts of officials taking it upon themselves to exceed their budgets because they felt a need to do so.

However well-meaning their motives might have been, bureaucrats and agency chiefs have no right to take it upon themselves to make policy.

I think that's the proper preserve of the Mayor and the Council and is the essence of home rule. It can't and shouldn't be tolerated. What is being done to assure that it won't?

Ms. AVANT. There is not specific work underway at this point, but in the audit plan, again, one of the specific items that we will be looking at is violations of laws and regulations and violations of the Antideficiency Act were clearly noted as a part of the audit. So we'll be working to identify that information.

Mr. DAVIS. Has anybody ever been prosecuted under on the Antideficiency Act?

Ms. AVANT. To my knowledge, no one has.

Ms. NORTON. I don't think in the history of the country.

Mr. DAVIS. I think a letter was written one time and a warning. You want to send a message. You want to get control of your managers, because sooner or later the law gets enforced.

It's always unfortunate for that person who is doing what everybody else was doing gets caught. We've heard the same people from political leaders who say, "Gee, everybody else was doing it."

But that probably sends a message faster than anything else and would have an immediate effect on spending.

In a similar vein, the Chief Financial Officer told us earlier that he was forwarding for you the names of people found to be withholding invoices or other obligations from the FMS. Are you doing anything on this problem?

Ms. AVANT. I haven't been forwarded any names at this point in time.

Mr. DAVIS. OK. I think that's all the questions I want to ask. Let me just say thank you very much for the job that you're doing. It's a tough job. We want to give you every support we can. You certainly have our confidence.

Ms. AVANT. Thank you.

Mr. DAVIS. Thank you very much. If our final panel would come forward, Dr. Brimmer.

Mr. BRIMMER. Thank you, Mr. Chairman.

Mr. DAVIS. I have to swear you in.

Mr. BRIMMER. May my colleague, John Hill, sit in case——

Mr. DAVIS. We'd been honored to have Mr. Hill here. John is a veteran of these panels and widely respected.

[Witness sworn.]

Mr. DAVIS. Thank you very much. Welcome to both of you. I want to apologize for the delays on this. They're sometimes unforeseen.

We did raise the debt limit today. We finally got to that, but it took us five votes to get there. Now if we can get the appropriations passed, which I understand is in the mill, I think it will make us a little happier by giving us a little more breathing room.

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

Mr. BRIMMER. Thank you very much, Mr. Chairman, and Members. I have a fairly lengthy statement, and with your permission, I would like to include it in the record and then highlight several points in the testimony.

Mr. DAVIS. Without objection, so ordered.

Mr. BRIMMER. I want particularly to discuss some of the financial issues on which we have focused our attention since Public Law 104–8 was passed.

These include the 1995 financial audit of the District, the 1996 budget and the 1997 budget process. I will also review the current cash situation and the expected resource needs of the District, such as new borrowing and an addition to the Federal payment.

When I appeared before this committee last week, I stressed the degree to which we were surprised at the difficulties in which the District found itself.

Since that time we have worked very hard to do whatever we could to help resolve the situation. Now, because of the timetables set forth in the statute, much of our activity has, of necessity, focused on the budget for fiscal 1996 and 1997.

But when we came into office, the budget for 1995 was still in force, and I would like to spend a few minutes talking about that budget for fiscal year 1995 because it provided the background for the 1996 budget.

In the early 1990's, the District submitted budgets to the Congress that showed expenditures and receipts in balance.

Even though these budgets appeared balanced, the District nevertheless did not actually achieve truly balanced budgets.

Instead, the city relied on a variety of measures to give the appearance of balanced budgets. These steps included receiving nearly $400 million in increased Federal payments, obtaining some $225 million in additional budgetary authority through the transfer of funds from the Water and Sewer Authority to the operating budget, the failure to record a Washington Metropolitan Area Transit Authority payment when it came due, and a change in the legal definition of the property tax year which allowed the District to obtain cash without commensurate increases in revenue.

These measures in the early 1990's enabled the District to report 3 years of positive general fund balances. Then, for fiscal year 1994, the District recorded a $335 million deficiency.

The auditors recently reported that the District had a deficiency of $54 million for fiscal year 1995. As a result, the Nation's Capital is now operating under the shadow of an accumulated $379 million deficit.

The results of the fiscal year 1995 audit indicated that the reduced deficiency for fiscal year 1994 is largely attributable to questionable measures taken to alter temporarily, historically high spending patterns.

These extraordinary steps were not permanent actions taken to reduce expenditures, nor were they operational changes within a long-term impact on the bottom line.

There were, however, some staffing reductions that did help to ease an otherwise negative outcome.

Still, Mr. Chairman, I must report that the District's appearance of an improving financial condition through a reduced fiscal deficit in fiscal year 1995 comes as a result of short-term or one-time actions with no lasting reductions or cost savings.

For example, short-term furloughs and certain one-time pay reductions for union employees resulted in almost $70 million in cost reductions for fiscal year 1995.

These measures have no impact on the structure of the District government's operating budget. Without temporary action such as I've just described, it's clear that the District's fiscal year 1995 deficit would have been considerably higher than the figure reported by the city's auditors.

I would also note that the District's revenues were lower than expected for the second consecutive year. For fiscal year 1995, the revenues were $96.6 million under the estimated amount which exacerbated the tight cash-flow situation today.

As a result, during fiscal year 1995, the District borrowed $146 million from the U.S. Treasury, then again in December 1995, which was actually in fiscal year 1996, the District borrowed an additional $283 million.

Let me now turn to the fiscal year 1996 budget. As you know, we got that document on February 23d, and the Authority voted to allocate reductions in fiscal year 1996 budget of the District subject to approval of the appropriations bill by the Congress.

This represented the Authority's latest action in a process that began 9 months ago when we reported to the Congress with recommendations for revisions to the District's budget.

Our recommendations addressed a variety of topics, including management initiatives, the need for improved financial and program performance information and the first significant reductions in FTEs in the District's work force.

The Authority recommended a budget totaling $5,123 million to the Congress which was reduced by the Appropriations Conference Committee to $4,994 million.

The difference, of course, is represented by the allocations that the Authority is poised to implement upon passage of the appropriations bill.

As you're aware, Mr. Chairman, and Members, the appropriation for the District has not passed Congress. We know about that, and we are delighted to learn that the prospect has brightened and that

we may, in fact, have a bill out and adopted in the next few days. We're hopeful that is the case.

In addition to providing recommendations to the Congress regarding the fiscal year 1996 budget and preparing for allocations of the budget cutbacks, the Authority has also reviewed the fiscal year 1996 supplemental budget.

The Council proposed a supplemental budget of $5,123 million, the same amount we recommended last summer. However, the supplemental budget at this level would have increased the accumulated deficit.

The Authority believed that approving a supplemental budget with such harsh fiscal consequences would have been irresponsible.

Consequently, in February, we disapproved the Council's action and instead submitted the budgetary allocations which I mentioned above.

Making allocations to meet the budget ceiling of $4,994 million required the Authority to make hard choices in many instances. We have made those choices.

We have generally kept cuts away from public health and safety and even added funds to support some of these areas. Furthermore, we have minimized the impact on service delivery of any reductions by suggesting to agencies that management and other administrative overhead costs and not line workers providing critical services bear the brunt of actual cuts.

I want to be absolutely clear on this point, because there, apparently, has been some confusion. In instances where agencies are making staffing reductions in front-line service operations, they are doing so in contravention of our specific request that cuts be absorbed by positions that do not adversely affect the delivery of critical services to our citizens.

In response to the Authority's approval of the supplemental budget, the Council, in accordance with Public Law 104–8, had responded with a revised budget that meets the $4,994 million appropriations ceilings.

We have been working with the Council and with city agencies, including the Mayor, to assess this new proposal in the context of current spending plans recently submitted by the agencies through the Chief Financial Officer.

To meet the timeframes established by Public Law 104–8, the Authority will consider the revisions of the Council's supplemental budget in a public meeting tomorrow afternoon.

In fact, at this moment, Mr. Chairman, I expect the Mayor to be in our offices visiting with the other board members concerning our latest effort to revise the allocations which we will announce and adopt tomorrow afternoon.

Finally, let me say, Mr. Chairman, although an appropriation bill has not been enacted by the District, the congressional intent that the Authority make allocations in accordance with the budget ceiling is clear.

Therefore, the Authority has told the Chief Financial Officer to take all measures necessary to prevent the District from spending above the $4,994 million level.

As a result, the Chief Financial Officer has instructed agencies with a history of overspending to hold back a portion of their funds to ensure compliance with the expected ceiling.

And a digression, Mr. Chairman, for a moment. The Chief Financial Officer reported last week that the record of spending through the end of February suggests that District agencies are, in fact, spending at a rate below the ceilings and that, in fact, they are spending at a rate below that recorded for the same period last year.

Now, the reason for that, however, is that the restraints are in place. If there were no restraints such as the hold-back, the rate of spending would be at or ahead of what was being done.

So we fully intend to keep those restraints in place to assure that the actual spending comes in under the 4,994 ceiling.

Mr. Chairman, I would like to discuss one more topic briefly, and then I would put the rest of my statement in the record and stand down for questions.

I want to talk for a moment about the progress on the financial plan and budget for fiscal year 1997. On February 20, 1996, we received the 1997 financial plan and budget in accordance with section 201 of the act.

This plan is the District's first submission of a complete financial plan and budget in accordance with Public Law 104–8.

As stated in the act, the financial plan and budget submitted to the Authority is expected to promote the financial stability of the District.

The document we received is a good first step in the process, but I must stress to you that there is much more work to be done.

As contemplated by statute, the 1997 plan and budget process is an ongoing process. Authority members and staff are working closely with the Mayor and the Chief Financial Officer to explore and develop many of the ideas in this budget.

We are looking forward to continuing our discussion with city leaders about the transformation issues that, if effectively implemented, can help in the District's revitalization.

Section 201 of the law requires that a financial plan and budget for the District of Columbia include standards intended to promote financial stability.

Specifically, the District government was mandated to achieve the following: Make continuous, substantial progress toward equalizing expenditures and revenues by 1999, provide for the orderly liquidation of the accumulated deficit, restore funds borrowed from other accounts, move toward access to the financial markets, promote the efficient management of District government's work force and ensure the efficiency provision of services by the District. After a thorough assessment of the Mayor's plan, the Authority determined that although subsequent progress has been made and many of the proposed initiatives hold promise, the plan had to be rejected under terms set forth in the act.

In making this determination, the Authority considered a number of factors, and I've described these in some detail in my testimony, Mr. Chairman, but I won't go into them orally at this point.

I would like to highlight a few conclusions and describe for you how I went about making the assessment. I took the standards and some questions that had to be answered.

I did so, in looking at the budget, and I concluded as follows: Does the plan make continuing substantial progress toward equalizing expenditures and revenues by 1999? My answer was it does not.

The plan shows staggered revenues, and a slight increase in expenditures. Figure 1 at the end of my testimony shows the limited progress in achieving these standards.

Moreover, as shown in figure 2 at the end of the testimony the deficit is projected to increase from $52.4 million in fiscal year 1996 to $102 million in fiscal year 1997.

Another deficit of $94.8 million is estimated for fiscal year 1998. Surpluses of $35 million and $26 million are projected for 1999 and 2000 respectively.

Therefore, the requirement to make continuous progress year by year is not achieved. To do so for fiscal year 1997, the deficit would have to be less than $52 million.

A smaller deficit can be achieved by higher revenue, lower spending or a combination of the two. Since revenue is not likely to rise, the focus must be on lower spending. I also note, Mr. Chairman, that one standard requires that the plan provide for the orderly liquidation of accumulated deficit. It does not.

Although the plan includes $650 million in deficit financing, the likelihood of this financing is questionable.

Without deficit financing, the deficit must rely on generating surpluses to repay the deficit. Even if all initiatives outlined in the plan are achieved, surpluses do not occur until fiscal year 1999 and 2000.

Furthermore, these surpluses would represent less than 10 percent of accumulated deficit at that time.

Mr. Chairman, having looked at the District's financial situation and the outlook for the budget and revenue generation and outlays, I'm convinced that at some point the District will have to have additional revenue.

I believe in the very near term the deficit which the District will run, and the cash shortage which it will run between now and this summer can only be met by borrowing from the Treasury with the balance of the Federal payment as collateral.

Looking beyond this summer and into the next fiscal year, I believe the District will have to borrow some long-term funds.

At our request, our staff has been conducting a number of soundings in the capital market. Just a couple of days ago they spent time in New York to talk with investment bankers.

The investment bankers are telling us that over the near term, "near term" in this context means the balance of this fiscal year, there is no prospect whatsoever that the District could borrow any money, let alone the $650 million, at all on its own credit.

They suggested a number of standards which must be met for market participants to be willing to take up the District's paper.

They are also telling us that the Control Board could borrow in the capital market long term for substantial amounts, perhaps as much as a half a billion dollars, $600 million.

They feel, of course, that we, the Control Board, would have to provide appropriate collateral, and that raises a question.

Should we, the Control Board, be willing to undertake such a borrowing in the near term? We have talked about the need for a long-term borrowing, but we have not decided whether we would or should seek to borrow.

My personal view is that for the Control Board to go into the capital market it would have to rely substantially on whatever credibility it has, and to risk that credibility I believe we must have followed a solid foundation for doing so.

For me, I believe the same kind of standards which the market is saying the city must meet to borrow, we should demand a similar kind of demonstration of performance, and I don't see that forthcoming in the next several months.

I would personally want to wait at least to see the results of fiscal year 1996, and then I would have at least a backdrop against which I can make a judgment about performance.

But I do believe, Mr. Chairman, at some point we will have to come to the question of long-term borrowing, and I believe when it does happen the Authority is going to have to do it.

The final comment I want to make, Mr. Chairman, is to repeat the comment I made last week that I would urge the Congress to look at the Federal payment.

In my testimony, I spell out some of the reasons why, and also some of the standards by which I believe a reconsideration of the Federal payment could be based.

Fundamentally, I believe that of all the bases for deciding on the size of the Federal payment it would be desirable to link it to inflation.

That would require an agreement as to the base year and the appropriate index to be used, but these are matters which we are examining, and we will continue to do so.

We will share the results of our analysis with you, and I would look forward to an opportunity to talk about that in the future.

Those are my comments, Mr. Chairman. Again, I would like to put the entire statement in the record, and I will stand to respond to your questions.

[The prepared statement of Mr. Brimmer follows:]

Mr. Chairman and Members of the Subcommittee:

My name is Andrew F. Brimmer, and I am Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority. I thank you for this opportunity to appear before the Subcommittee today and to discuss my views on the current financial condition of the District of Columbia.

Introduction

Last week, other Members of the Authority and I appeared before this Subcommittee to discuss Public Law 104-8 and its impact on the District and its residents. We highlighted the condition of the District and the mission and accomplishments to date of the Authority. We also reviewed our relationships with public officials and various stakeholders, potential changes to the enabling legislation, and the vision that the Authority has for the future of the Nation's Capital.

Today, I want to discuss some of the financial issues on which we have focused our attention since Public Law 104-8 was passed. These include the

1995 financial audit of the District, the 1996 budget, and the 1997 budget process. I will also review the current cash situation and the expected resource needs of the District, such as new borrowing and an addition to the Federal payment.

In my testimony last week, I reported that the District of Columbia remains today, almost a year after the passage of Public Law 104-8, in very serious financial condition. Without drastic action in the coming weeks, the District's cash situation will become even worse. Obtaining the rest of the Federal payment, now tied up in the appropriations bill, is extremely important to the District. And those funds, although critically necessary, are only one part of the solution to the District's revenue problem. The Authority has concluded--after months of study--that additional short-term resources are needed to ease the District's financial crisis. The Authority, in the near future, will work closely with the Mayor, the District Council, the President, and the Congress to identify funding sources to eliminate this crisis.

Let me also mention once again, Mr. Chairman, that the condition in which the District finds itself today is much worse than I anticipated when

President Clinton appointed me as Chairman of the Authority. Cash shortages, the size of the deficit, the vendor payment problems, dwindling revenues, and decaying infrastructure all seem worse than I originally expected. And, while we believe that there is some cause for hope, no one should under estimate our financial plight and the amount of time, effort, and cooperation -- from all who care about this City -- that will be necessary for us truly to revitalize the District.

Status of the Budget

In the early 1990's, the District submitted budgets to the Congress that showed expenditures and receipts in balance. Even though these budgets appeared balanced, the District, nevertheless, did not actually achieve truly balanced budgets. Instead, the City relied on a variety of measures to give the appearance of balanced budgets. These steps included:

- Receiving nearly $400 million in increased federal payments.
- Obtaining some $225 million in additional budgetary authority through the transfer of funds from the Water and Sewer Authority to the operating budget.

- The failure to record a Washington Metropolitan Area Transit Authority payment when it came due.
- A change in the legal definition of the property tax year, which allowed the District to obtain cash without a commensurate increase in revenue.

These measures in the early 1990s enabled the District to report three years of positive general fund balances. Then, for fiscal year 1994, the District recorded a $335 million deficiency. The Auditors recently reported that the District had a deficiency of $54 million for fiscal year 1995. As a result, the Nation's Capital is now operating under the shadow of an accumulated $379 million deficit.

The results of the Fiscal Year 1995 audit indicate that the reduced deficiency over Fiscal Year 1994 is largely attributable to questionable measures taken to alter temporarily historically high spending patterns. These extraordinary steps were not permanent actions taken to reduce expenditures. Nor were they operational changes with any long-term impact on the bottom line. There were, however, some staffing reductions that did help to ease an otherwise negative outcome.

Still, Mr. Chairman, I must report that the District's appearance of an improving financial condition through a reduced deficit in Fiscal Year 1995 comes as a result of short-term or one time actions with no lasting reductions or cost savings. For instance, while short-term furloughs and certain one-time pay reductions for union employees resulted in almost $70 million in cost reductions for fiscal year 1995, these measures have no impact on the structure of the District Government's operating budget. Without temporary actions such as I have just described, it is clear that the District's Fiscal Year 1995 deficit would have been considerably higher than the figure reported by the City's Auditor. This situation and the current cash crisis are the underlying reasons for the statement I made earlier in my testimony about the serious nature of our financial condition.

I would also note that the District's revenues were lower than expected for the second consecutive year. For fiscal year 1995, the revenues were $96.6 million under the estimated amounts, which exacerbated the tight cash flow situation. As a result, during fiscal year 1995, the District borrowed

$146 million from the U.S. Treasury. In December, 1995 (which was in FY 1996), the District borrowed an additional $283 million.

Fiscal Year 1996 Budgets

Mr. Chairman, let me now turn to the Fiscal Year 1996 budget. As you know, on February 23, 1996, the Authority voted to allocate reductions in the Fiscal Year 1996 budget of the District, subject to approval of the appropriations bill by the Congress. This represented the Authority's latest action in a process which began nine months ago, when we reported to the Congress with recommendations for revisions to the District's budget. Our recommendations addressed a variety of topics, including management initiatives, the need for improved financial and program performance information, and the first significant reductions in FTEs in the District's workforce. The Authority recommended a budget totaling $5.123 billion to the Congress, which was reduced by the Appropriations Conference Committee to $4.994 billion. The difference, of course, is represented by the allocations that the Authority is poised to implement upon passage of the appropriations bill.

As you are aware, Mr. Chairman, the appropriation for the District has not passed the Congress. Its absence, combined with the delay in receipt of the remainder of the Federal payment, has caused additional hardship on a city already beset by multiple financial challenges. Continued delay will not only exacerbate the problems I have already discussed, but it could also reverse the progress that the District has made toward stabilizing its financial condition. Moreover, the absent Federal payment also raises costs to the District through increased interest charges. So, I urge the Congress strongly to put aside whatever differences exist that prevent passage of the District's appropriations: the District of Columbia, our Nation's Capital, should not be left as a pawn in some political chess game.

In addition to providing recommendations to the Congress regarding the Fiscal Year 1996 budget and preparing for allocations of the budget cutbacks, the Authority has also reviewed the Fiscal Year 1996 supplemental budget. The Council proposed a supplemental budget of $5.123 billion--the same amount we recommended last summer. However, a supplemental budget at this level would increase the accumulated deficit. The Authority believed that approving a supplemental budget with such harsh fiscal

consequences would be irresponsible. Consequently, in February, we disapproved the Council's action and instead substituted the budgetary allocations.

Making allocations to meet the budget ceiling of $4.994 required the Authority to make hard choices in many instances. We have generally kept cuts away from public health and safety -- and even added funds to support some of these areas. Furthermore, we have minimized the impact on service delivery of any reductions by suggesting to agencies that management and other administrative overhead costs -- and not line workers providing critical services -- bear the brunt of actual cuts. I want to be absolutely clear on this point, Mr. Chairman: in instances where agencies are making staffing reductions in front-line service operations, they are doing so in contravention of our specific request that cuts be absorbed by positions that do not adversely affect on the delivery of critical services to our citizens.

In response to the Authority's disapproval of the supplemental budget, the Council, in accordance with Public Law 104-8, has responded with a revised budget that meets the $4.994 appropriations ceiling. We have been

working with the Council and with City agencies to assess this new proposal in the context of current spending plans recently submitted by the agencies to the Chief Financial Officer. To meet the timeframes established by Public Law 104-8, the Authority will consider the revisions to the Council's supplemental budget in a public meeting tomorrow afternoon.

Finally, let me say, Mr. Chairman, although an appropriations bill has not been enacted for the District, the Congressional intent that the Authority make allocations in accordance with the budget ceiling is clear. Therefore, the Authority has told the Chief Financial Officer to take all measures necessary to prevent the District from spending above the $4.994 billion level. As a result, the Chief Financial Officer has instructed agencies with a history of overspending to hold back a portion of their funds to ensure compliance with the expected ceiling.

Fiscal Year 1997 Budget

Let me now discuss our progress on the financial plan and budget for Fiscal year 1997. On February 20, 1996, we received the 1997 financial plan and budget in accordance with section 201 of the Act. This plan is the District's

first submission of a complete financial plan and budget in accordance with Public Law 104-8. As stated in the Act, the financial plan and budget submitted to the Authority is expected to promote the financial stability of the District. This document is a good first step in the process, but I must stress to you that there is much more work to be done. As contemplated by statute, the 1997 plan and budget process is an on-going process. Authority Members and staff are working closely with the Mayor and the Chief Financial Officer to explore and develop many of the ideas in this budget. We are looking forward to continuing our discussions with city leaders about the transformation issues that, if effectively implemented, can help in the District's revitalization.

Section 201 of Public Law 104-8 requires that a financial plan and budget for the District of Columbia include standards intended to promote financial stability. Specifically, the District Government was mandated to achieve the following:

- Make continuous substantial program toward equalizing expenditures and revenues by 1999.
- Provide for the orderly liquidation of the accumulated deficit.
- Restore funds borrowed from other accounts.
- Move toward access to the financial markets.
- Promote the efficient management of the District government's workforce.

- Ensure the effective provision of services by the District.

After a thorough assessment of the Mayor's plan, the Authority determined that although substantial progress has been made and many of the proposed initiatives hold promise, the plan had to be rejected under terms set forth in the Act. In making its determination, the Authority considered several factors:

First, the Board determined that the definition of substantial progress may not be the same today as it was when the Authority was created. It was felt that this potential variance exists as a result of several unforeseen developments which have exacerbated the District's financial situation. These include:

- A prolonged federal budget process. Even as of this date, only a continuing resolution guides the District's spending plans for the current fiscal year.
- One-third of the federal payment has not been received.
- An increasing number of District activities have been placed under receivership.
- The Chief Financial Officer (who plays a key role in the effort to revitalize the District) was not appointed until six months after the Act was signed.
- An inability to borrow has meant that District funds normally used for operations were redirected to capital purposes.
- The District's budget was cut to a level below that recommended by the Authority for Fiscal Year 1996.

In the context of these concerns, the Authority Members then discussed some of the issues that they would consider as evidence of substantial progress. These included the following:

- What capital costs are being covered in the operating budget that would not be there with better access to the market, allowing for more funds to be spent on operations?
- What investments in people, technology, and economic development have been planned for 1997 that will streamline government, improve services, and reduce the deficit?
- What preventive maintenance investments are being made now that will substantially reduce future maintenance costs?
- What expenditures have been made to improve core services, such as public safety, that were cut substantially in prior budgets and for which additional resources are needed?
- What is the expected rate of growth in expenditures compared to other jurisdictions, and how does the growth of these outlays compare to expected inflation rates?
- What structural issues for improving services and streamlining government have been addressed in the Mayor's budget?

In my own assessment of the Mayor's budget, the posed statutory standards outlined above were a series of questions which needed to be answered:

Does The Plan Make Continuous Substantial Progress Toward Equalizing Expenditures and Revenues by 1999?

It does not. The plan shows stagnant revenues with slightly increasing expenditures. Figure 1 shows the limited progress in achieving this standard. Moreover, as shown in Figure 2, the deficit is projected to increase from

$52.4 million in Fiscal Year 1996 to $102.2 billion in Fiscal Year 1997. Another deficit of $94.8 million is estimated for Fiscal Year 1998. Surpluses of $35.1 million and $25.5 million are projected for 1999 and 2000, respectively. Therefore, the requirement to make continuous progress year-by-year is not achieved. To do so for Fiscal Year 1997, the deficit would have to be less that $52.0 million. A smaller deficit can be achieved by higher revenue, lower spending, or a combination of the two. Since revenue is not likely to rise, the focus must be on lower spending.

In order to achieve even the limited progress shown in the budget projections, the Mayor's plan relies heavily on a number of management initiatives that address both the revenue and expenditure side of the equation. The Authority reviewed these initiatives and included an assessment of many of them. However, many of the initiatives require additional information before their impact can be evaluated.

Does The Plan Provide For The Orderly Liquidation Of The Accumulated Deficit?

It does not. Although the plan includes $650 million in deficit financing, the likelihood of this financing is questionable. Without deficit financing, the District must rely on generating surpluses to repay the deficit. Even if all

initiatives outlined in the plan are achieved, surpluses do not occur until FY 1999 and 2000. Furthermore, these surpluses would represent less than ten per cent of the accumulated deficit at that time.

Does The Plan Restore Funds Borrowed From Other Accounts?

The plan does not restore all funds borrowed from other accounts. The primary uses of funds by the District have been from the capital and water and sewer accounts. The repayment of water and sewer funds is considered in the financial plan, but the specifics of how that is to be achieved is not indicated.

Does The Plan Move Toward Access To The Financial Markets?

Because the plan has not yet met some of the standards required to move the District toward financial stability, the prospects for going to market with a successful financing remain doubtful. The main obstacle is posed by the many uncertainties that continue to surround District finances and operations.

Does The Plan Promote The Efficient Management Of The District Government's Workforce?

The plan contains several elements that move the District to a more efficient workforce. These include the major reforms contemplated in personnel management, the move to privatization of functions in several agencies, and the recognized need to develop performance plans with measurable criteria.

Does The Plan Ensure The Effective Provision Of Services By The District?

The Authority considered the impact that changes in funding levels have on expected program outcomes, but some of the needed information was not included in the plan. This basic cost information is critical in order to assess the value of the services provided, make decisions about the best way to deliver those services, and set priorities for funding.

Revenue Issues

Mr. Chairman, I would like to turn now to revenue issues. Of course, the budget process and statutory deadlines dictate much of our focus and involvement in the City's expenditure decisions. Nevertheless, the Authority has spent a good deal of time reviewing revenue assumptions and considering the future resource needs of the District.

The actual review process for the 1997 financial plan and budget began in January when we considered the assumptions used by the District to determine revenue. The outlook presented to us by the District was not positive. As a result, the Authority has been concerned that, over time, sufficient resources from existing sources may not be available adequately to fund the critical core services of the District. Thus, in the course of the Authority's consideration of the budget, we have sought ways for reversing the District's stagnant and, in some instances, declining, revenue sources.

The revenue projections on which the Mayor's budget is based show a very modest growth of only 6.0 per cent during the period to 1996-2000. Tax revenues may rise by only 3.2 percent. The expected rise in outlays is 4.3 percent. The reasons for the slow increase in revenues are widely known: property taxes rise slowly because real estate values in the District are appreciating very little. Sales tax revenue is relatively stagnant because much of the retail trade is migrating to the suburbs.

Income taxes are also rising slowly--although personal income earned in the City is increasing at a relatively high rate. For example, between 1990

and 1995, total personal income in the District rose by 21.3 per cent, compared with 23.8 percent in Maryland and 27.1 per cent in Virginia. However, the bulk of the income earned in the City is not subject to the District's personal income tax, and the gap has been growing . For instance, in 1985, about 45 percent of total personal income earned in the City was received by District residents, and 55 per cent went to residents of Maryland, Virginia and other outside areas. By 1995, the corresponding proportions were 30 per cent and 70 per cent, respectively.

Mr. Chairman, I am keenly aware that many members of Congress and the community at large expect that the principal method for achieving fiscal stability in the District is through the reduction of expenditures. At the very least, many people believe that new revenue streams should not be made available to the District absent significant structural change in the City's budget and spending patterns. As I have mentioned, the Authority has devoted--and will continue to devote--considerable time to reviewing the expenditure portion of our financial quandary. We believe that substantial savings can be achieved throughout the District Government by fundamentally altering the way the City does business. The Authority expects

to see -- and is working with the District to achieve -- significant savings through out-sourcing, streamlining and rationalizing government agencies while protecting core services, reforming the procurement system, and a host of other initiatives. My previous testimony before this Subcommittee outlines some of the savings that we already have begun to see through this process. And I am certain that the benefits of such restructuring are only just beginning.

Despite the progress that we have seen on the expenditure side of the ledger, our deep concern about this City's current crisis and its future requires that we begin to examine ways to increase revenues. Be assured, Mr. Chairman, that my desire to improve the City's access to resources in no way diminishes my commitment to reducing unnecessary spending. I also recognize that it is through the reduction of excess spending, and through the City's strict adherence to its appropriations ceiling, that we will primarily regain the confidence of the Congress and the investment community so critical to our long-term stability.

Nevertheless, the Nation's Capital does not exist in a vacuum. Accompanying years of potentially unnecessary or unwise spending, there also have been real pressures on expenditures for health care, for public safety, and for other services endemic to the City. I need not remind the Subcommittee that Washington is a city like no other in this country. Because of the District's uniqueness, the spending patterns and resource requirements of other cities do not provide adequate budgetary models to be followed here.

The Authority recognizes that much of the new resources needed by the District must be developed over time, through new investment and economic development, through equitable distribution of the tax base, and by building confidence in the capital markets for a viable City. Additionally, it is my view that the Congress must begin to reconsider its own historic relationship with the District and its support of the City's operations.

For instance, the Federal payment to the District has fluctuated over time. In recent years, the Federal payment to the District has been fixed at $660 million -- without regard to interest rates, the mandates placed on the City by the Federal Government, or the rising volume of basic services

provided for residents and visitors. In my opinion, the long-term viability of the District requires a reconsideration by the Congress of the purpose of the Federal payment. A conscious decision should be made about whether the government's funds are provided simply to offset the District's lost revenue due to the Federal presence. If that is the case, then the City probably is not being adequately compensated. Perhaps Congress should consider whether its payment would be better utilized instead for restoring and enhancing the Nation's Capital. Certainly a more comprehensive examination of the payment and its purposes is warranted. In the meantime, it seems to me, in this time of fiscal crisis, the Congress might at least consider tying the Federal payment to the inflation rate or some other indicator that takes into account the dynamic changes in the city in which we live and work.

Mr. Chairman, I know that the issue of additional resources for the City is difficult to examine at this time, but I strongly believe that it merits renewed consideration by the Congress. I look forward to discussing this issue with the Subcommittee in the weeks and months ahead.

The cash situation

Finally, Mr. Chairman, let me provide the Subcommittee with an update on the District's cash situation. As I mentioned earlier, standards set for the 1997 plan and budget have not been successfully met to date. This has meant the prospects for going to the capital market with a successful financing remain doubtful because of the many uncertainties surrounding District finances and operations. For example, bankers and investors continue to be concerned about many factors, including:

- A credible multi-year plan.
- Ability of the District to implement the Authority's actions on the Fiscal Year 1996 budget.
- Continued disagreement on basic issues between the Authority and the District Government.
- Absence of an authorized budget for 1996.
- The sufficiency of interim systems effectively to monitor and control expenditures.
- An absence of trust that the District's budget figures are credible.
- Very limited capacity by municipal insurers to accept additional District risk.

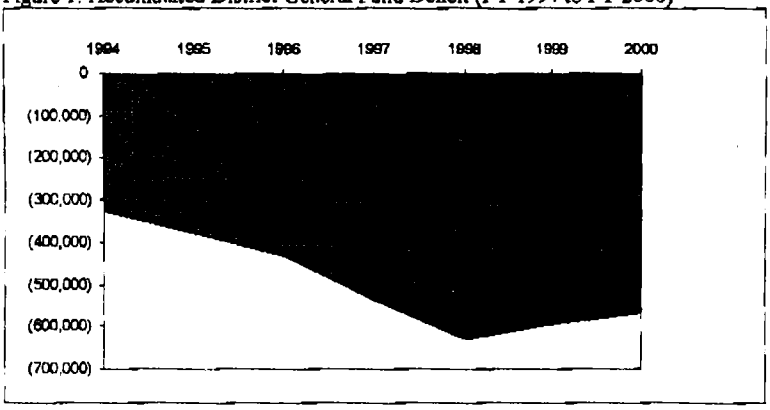
It is in the context of this difficult situation that the Authority is reviewing the District's cash needs. A lack of adequate resources related to the Federal payment has meant, among other things, that payment priorities for the District must be reassessed daily in an attempt to manage available cash against the uncertainty of receiving the Federal funds. Without the payment in April, for instance, retirement obligations may be delayed and

WMATA payments deferred. In addition, until the accumulating deficits are addressed through the financial plan and budget process, all cash shortfalls by default are funded by the District's vendors. Without cash relief soon, the substantial progress made by the Chief Financial Officer in rationalizing the payment process and getting vendor payments up-to-date may be erased, as the District -- forced because of the cash crisis -- to suspend vendor payments. This crisis is real, and as cash shortfalls mount in the coming months they will make our goals very difficult to achieve.

It is unfortunate that the Congress, which sought through Public Law 104-8 to help the District in its financial crisis, could--by its inaction now--set the District back many months in its struggle for financial stability. I urge the Congress to pass the District's appropriations and to release the remainder of the Federal payment.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions that you or your colleagues have. Thank you.

Figure 1: Accumulated District General Fund Deficit (FY 1994 to FY 2000)



Accumulated deficit

1994	1995	1996	1997	1998	1999	2000
(324,105)	(378,532)	(430,937)	(533,115)	(627,904)	(592,828)	(587,311)

Figure 2

	1994	1995	1996	1997	1998	1999	2000
	Actual	Actual	Authority	Forecast*	Forecast*	Forecast*	Forecast*
Revenue							
Taxes	2,470,053	2,391,041	2,335,710	2,349,126	2,364,179	2,400,774	2,413,790
Non tax revenue	234,566	210,063	180,567	189,503	197,485	203,314	203,893
Federal payment	647,930	660,000	660,000	660,000	660,000	660,000	660,000
Transfers	79,583	85,100	76,100	76,999	70,300	73,464	74,890
	3,432,132	3,346,204	3,252,377	3,275,628	3,291,964	3,337,552	3,352,573
Grants	960,708	855,308	919,159	879,316	871,702	820,139	841,819
Private/Other	127,628	128,008	114,152	114,114	116,396	118,724	121,098
IntraDistrict			115,322	110,792	130,115	134,704	139,615
Enterprise	599,604	589,012	582,862	687,623	731,952	756,929	826,014
Total revenue	5,120,072	4,918,532	4,983,872	5,067,473	5,142,129	5,168,048	5,281,119
Government Direction	129,601	131,001	133,795	147,303	139,446	138,240	138,105
Economic Development	286,722	258,514	144,511	144,896	149,447	153,682	158,062
Public Safety and Justice	1,106,556	1,069,910	984,718	1,003,257	1,021,946	1,048,432	1,084,032
Public Education	796,138	759,973	796,097	754,277	788,909	822,862	849,501
Health and Human Services	1,874,348	1,349,990	1,725,971	1,776,650	1,716,679	1,561,421	1,563,606
Public Works	276,964	249,202	283,938	295,148	327,336	335,044	348,147
Financing and Other Uses**	385,567	565,357	384,385	347,448	343,803	294,611	266,386
Enterprise	599,603	589,012	582,862	700,673	749,352	778,679	847,764
Expenditures	5,455,499	4,972,959	5,036,277	5,169,651	5,236,918	5,132,971	5,255,603
Difference	(335,427)	(54,427)	(52,405)	(102,178)	(94,789)	35,077	25,517
Cumulative Difference	(335,427)	(389,854)	(442,259)	(544,437)	(639,226)	(604,150)	(578,633)

* Adjusted for initiatives.

** Includes $65 million for deficit financing costs in fiscal years 1998, 1999, and 2000.

Mr. DAVIS. Dr. Brimmer, thank you very much. Let me just ask a question. The city has got an immediate cash shortfall, a cash shortfall of how much?

Mr. BRIMMER. Mr. Williams has suggested that the cash needs are roughly as follows: Beginning in——

Mr. DAVIS. Well, let's assume you get the Federal payment next week.

Mr. BRIMMER. Assuming we get the Federal payment, then there would be in April, $69 million; May, $23 million; June, $82 million; the big jump in July, $146 million; and August, $60 million.

Mr. DAVIS. So another $400 million on top?

Mr. BRIMMER. The CFO believes that it leads to a negative $194 million, and that is assuming we get the Federal payment.

Mr. DAVIS. Now, to get this money at this point, what would be your strategy? It's very difficult for the Federal Government at this point to just lend money to the city the moment it scores. You have to find offsets and everything else.

Is it possible for you to go out to the marketplace if you deemed the city ready to do that?

Mr. BRIMMER. It's my understanding that we, the Control Board, would be free on our own initiative to go into the market and borrow directly——

Mr. DAVIS. If somebody will lend you the money.

Mr. BRIMMER. On behalf of the city. The requirement, understand, would be the city would need to ask us to do so.

And there is one question as to whether, if we borrowed the money, provided there is appropriate collateral, of course, the question would be what is that collateral.

If we could borrow the money, the question is can the city use the money? Could we downstream it to the city, and could the city use it for purposes such as repaying the deficit and so on, if some part of that accumulated deficit represents excess spending beyond the level that was appropriated.

That question is being examined. I've been told that if that is the case, then Congress would need to adopt a measure, essentially, sanitizing that excess spending and making them appropriated spending and thus making it possible for the city to use the funds.

Mr. DAVIS. Let me ask whether the city could make it through this year, with Treasury borrowing and a Federal payment?

Mr. BRIMMER. That is my understanding.

Mr. DAVIS. OK. Let me just ask, the District's true financial condition, you just talked about the cash-flow.

Basically, when you strip everything away, there is what kind of structural deficit in the city year to year without some major changes in the way they're doing business, $200 million a year, $300 million a year? What is the structural deficit at this point, assuming the city just goes on the way it is?

Mr. BRIMMER. I would think it would be at least $200.

Mr. DAVIS. That is the structural deficit. In other words, we do the same thing next year we're doing this year. What can we expect the deficit to be next year?

Mr. BRIMMER. If you look at the rate at which it is accumulated, another $200 million next year, then I would say it would be roughly the same as it was this year.

Mr. DAVIS. OK. So you have a structural deficit of a couple hundred million dollars which, in your judgment, can't be cut out without some very severe repercussions to city services, quality of life, things that have to improve if we're going to increase the tax base?

Mr. BRIMMER. That is absolutely correct, Mr. Chairman.

Mr. DAVIS. All right. And this doesn't even get to the capital program of the city, what exists, filling potholes, resurfacing sidewalks and those kind of things?

Mr. BRIMMER. It does not. And the deficit in capital spending is also substantial, what with repaired bridges and so on, substantial.

Mr. DAVIS. Would it be, do you think, a fair estimate to say that the capital deficit—that's the amount of money the city has to forego for things they ought to be spending money on—could be not just in the hundreds of millions but in the billions?

Mr. BRIMMER. I don't know whether it would be in billions, but it would be——

Mr. DAVIS. Sir, you're under oath. I'm not. You have to be more careful.

Mr. BRIMMER. It would be very large.

Mr. DAVIS. It would be in the hundreds of millions?

Mr. BRIMMER. Hundreds of millions, yes.

Mr. DAVIS. At a minimum.

Mr. BRIMMER. In fact, Mr. Chairman, in figure 2 of my testimony, you will note that the accumulated deficit hits a peak under the Mayor's budget projection of $639 million, and that's just the accumulated operating deficit.

My hunch is that the deficit in capital spending would be at least that large.

Mr. DAVIS. Let me just ask a question. Even if we were to lend this city or even give the city $600 million to get through the cash crunch—let's just say we gave you $600 million so it would get you over the hump—and then add $100 million a year for the Federal payment that doesn't really get you there, does it, necessarily, or is there still some question because of the capital deficits that exist and because of the structural issues?

Mr. BRIMMER. It would not wipe out both deficits, but it would go a long way toward reducing the burden of carrying them.

Mr. DAVIS. And that doesn't even get to the unfunded pension liability.

Mr. BRIMMER. It does not.

Mr. DAVIS. Which clearly has got to be restructured both on the city's part and at the Federal Government's level. The city couldn't possibly resolve the unfunded pension liability under current law, could they?

Mr. BRIMMER. I don't think so, but I would need to rely on——

Mr. DAVIS. John, have you got any thoughts on that?

Mr. HILL. No. It could not under current law.

Mr. DAVIS. I mean, it's not even close, is it?

Mr. HILL. No. The year 2004, I believe it would cripple the city, about 2004.

Mr. DAVIS. That's just brewing and brewing. We're going to need to talk separately about that and discuss how we're going to do it, and probably the sooner we face it the better.

What's the status of the city's labor——

Mr. BRIMMER. Mr. Chairman, on that point may I just add I understand that at the current rate at which the unfunded pension liabilities are growing, by about 2004 that will be in the neighborhood of $700 million.

Mr. DAVIS. The current budget right now has structural issues. I'm going to ask you about certain areas, and you tell me whether you think they're adequately funded and if they were managed appropriately.

Mr. BRIMMER. All right.

Mr. DAVIS. But let's talk about Corrections right now. Is Corrections underfunded?

Mr. BRIMMER. Corrections is underfunded.

Mr. DAVIS. Substantially?

Mr. BRIMMER. Substantially. And in looking at our allocations, our inclination right now, in looking to 1997, is to recommend that there be a sizable increase.

We didn't put in a figure but certainly a sizable increase in the resources devoted to Corrections.

Mr. DAVIS. Just from my knowledge—I've spent some time with this because Lorton is located out in northern Virginia—but Lorton is falling apart, because we have had years of underfunding and neglect because of other budget pressures in the city.

The political squeaky wheel is not to put it into Corrections and into those areas.

Mr. BRIMMER. Mr. Chairman, our colleague, Steve Harlan, the vice chairman, spearheaded our examination in this area, and he concluded, and we took his conclusions into account and commented in the 1997 budget, that there are two categories of shortfalls, some very, very short term.

Corrections doesn't have enough money to buy food and supplies and so on. So short term, a real shortage. Then, looking farther down the——

Mr. DAVIS. They could do it with bread and water, I guess, though, couldn't they?

Mr. BRIMMER. Pardon me?

Mr. DAVIS. They could do it with bread and water?

Mr. BRIMMER. Well, the courts say they can't.

Mr. DAVIS. OK.

Mr. BRIMMER. And then looking beyond that, he concluded there is a need for a substantial increase in resources to deal with some of these longer, more difficult structure problems, dormitories and so on.

Mr. DAVIS. The reason I'm asking you this is we know the city has literally, in my judgment, hemorrhaged money. I mean, you give the city money, who knows where it goes.

We've detailed that, but even should the city get its information technology up-to-date, get their management top notch, start moving into the 20th century let alone the 21st century, with the way that they start spending and account for money, what I hear you saying is that there is still a substantial shortfall that will need to be addressed. But you're not ready to make a recommendation on that in a specific manner yet until the city can address some of its own internal issues. We know the money that will be given to the city through the Control Board will be spent correctly?

Mr. BRIMMER. Yes. We urge the city for fiscal year 1997 to put more money in that direction. Now, we are fully aware of a number of practices which are counter-productive.

For example, we were told that a number of slots are vacant there, and they used them for overtime.

Mr. DAVIS. I understand. It just seems to me if you're the city and you're sitting here that, in point of fact, you have every incentive to get your act cleaned up, to make appropriate changes, to work with the unions and everybody else and right-size, downsize, get things lean and mean, because if you do that, you're much more likely to get a huge slug of money.

The city, it seems to me, is so engulfed, with huge differences between what they'd like to do and what they're able to afford to do, that it destroys the spirit of anybody out there trying to do anything. It's like taking a drop at a time out of the ocean, and you can't possibly do that.

Mr. BRIMMER. Well, Mr. Chairman, while we have spent most of our time on budget issues, we have spent some time on management issues. And we will be doing more of that.

Our brief survey so far suggests a number of practices in the various agencies, and Corrections is one of them, where the practices are costing money and being counter-productive at the same time, and we'll be looking at those.

Mr. DAVIS. Thank you. I tried to make this point, earlier—it's difficult for us to go forward and ask for any more money if we're not sure it's going to be spent efficiently.

Mr. BRIMMER. Yes.

Mr. DAVIS. To the point we know it's going to be valued, that the money is going to be spent well and everything else, I think we can all hold our heads up and say let's spend it and save the city, but we're not there yet. Would you agree with that?

Mr. BRIMMER. I agree wholeheartedly.

Mr. DAVIS. I'm going to yield now to Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman, and thank you, Dr. Brimmer. I only have a couple of questions. I do want to say that the credibility of the Authority is particularly solid when you consider the prediction or the recommendation you made concerning cuts this year, after you and the city had worked together to make cuts, and indicated that there be no further cuts, pending re-engineering you suggested be done, if Congress had listened to you, I think that the District would at least be on the first step of recovery.

Having to go back into this budget for the second year running and just cut where you could puts you in a place where your testimony indicated that the city really should not go with certain one-time savings and the rest. Is that not the case?

Mr. BRIMMER. Yes, Madam Congresswoman, that is correct. That is my view.

Ms. NORTON. If ever anybody could say I told you so, it is really the Authority at this point. I also want to congratulate the Authority. You've testified that you've put in place restraints, and only because of these restraints are the agencies spending below the ceiling.

I wonder if you'd describe those restraints and indicate how you think that might continue in the future.

Mr. BRIMMER. Yes. The one I had in mind is the following: We allocated the $130 million-odd difference between $5.123 and $4.994.

We said that the agencies could spend 100 percent of their allocation, the ceiling we set, if they are spending at a rate consistent with remaining under that ceiling.

But for those agencies which have spent in the past or are currently spending at a rate to suggest that they are above that ceiling or not likely to get down below it, that they should be able to spend at a rate only 90 percent of their allocations.

And the chief financial officer has programmed the payment system to assure that that happens. Some of the details include such things as checks.

There was some $70 million odd checks in fiscal year 1995 written outside of the system, thus outside of the controls.

Ms. NORTON. So if you do that now, what happens to that check?

Mr. BRIMMER. It bounces. Essentially, it bounces. And those are the screams you are hearing. The system is now programmed in such a way that only the authorized payments at the rates suggested can clear.

Now, there are several agencies which fall into that second category where they are spending at a rate in excess, and so they're subject to this holdback of 10 percent. They will spend only 90 percent.

The school board is one. UDC is another, and there are certain other agencies where this is happening.

Now, as they work out plans and demonstrate to the CFO that they, in fact, are complying with the spending rates, then he can give them release, and they could move up toward spending at 100 percent. That's the principal restraint that we have had.

Ms. NORTON. So that really does mean that the Authority, through these restraints, is getting overspending, the chronic problem that led the District into insolvency, under control, and we should be beyond overspending by the time this fiscal year is over?

Mr. BRIMMER. What I've described reflects the results through February. We still have from that date more than half the year left.

I'm hopeful that we will do it, but there are some agencies that are so far beyond their ceilings that they're going to have a very hard time doing it.

And those agencies are not simply the operating agencies. Some of these are in central administration and so on.

So when we settle on our final allocations tomorrow and announce those, I'm certain there will be several agencies that will have to come and say, "We will have to do a number of difficult things to do it."

We are seeing some of the results in the newspaper story today where someone says, and this is Public Works—that's a good example—says that, "If we have to live with the restraints, then we're going to have a dirty city," things we just can't do.

Well, our response to them, and I mentioned that because it just happened to be prominently in the newspapers today, that if we are to have restraints, then somebody has to give up something.

There are some things they simply can't do, and we'll see that. We have tried to make the allocations with as much care and precision as possible.

As I've said, we have stressed that the social services have to be maintained and so on, but someone has to stop spending, and that's what we're hopeful of achieving during the rest of the fiscal year.

Ms. NORTON. Well, if someone is always spending, layoffs can't help at this point, can they, given the costs associated with layoffs?

Mr. BRIMMER. You said if they're overspending?

Ms. NORTON. Yes. You say that some have gotten in a position where it will be difficult for them to draw back in time, and then, therefore, they have to find some way to make these savings.

Well, the first thing laypeople think about, for example, are layoffs. Layoffs in government service create costs initially.

So I'm wondering whether you planned for what can happen if someone gets too far out in front on costs in spending.

Mr. BRIMMER. We would still expect that an agency which is far off its course to take the steps it can take and make the results.

I could pick out individual agencies and some of the things they have confronted and are having to do, but some agencies are having to do furloughs.

Some will have to cancel contracts. Still others will have to forego capital spending and what not. That's excruciating. It's, in many cases, wasteful, but if they are to meet the spending targets, then they have to do something, and you will be hearing the screams. You're already doing so.

You'll hear more, but our posture is that if we are to keep the $4.994 ceiling, and we intend to do so, then there must be some savings somewhere.

Ms. NORTON. Well, I know that the chairman said to you, Dr. Brimmer, if you hear screams from the politicians or from citizens, that's what you're there for.

Well, let me say that in this case if citizens are looking for the villain in the piece, they certainly shouldn't look at the Control Board, because the Control Board recommended 5.0 and got 4.9, and the Control Board has absolutely no alternative but to do what Congress has mandated.

And if that is your number, you are without discretion. So it is not in this case a discretionary act, and therefore you should look to beat up on the Control Board.

The act originated here, and you've done it bravely and without pointing fingers at the Congress, but do allow me to do so.

I was very intrigued by some of your suggestions that you're beginning to lay out a Federal payment formula, because I've been working on my own on some ideas for the Federal payment formula.

Your inflation notion, for example, is important when you consider that the exact opposite is how the present formula was drawn, not because anybody was trying to punish the District, but

Congress was looking for an objective basis that also encouraged the District to do what it could in raising money or raising funds.

So it came up with a perfectly reasonable sounding formula that said you'll get at that time 24 percent of District-raised revenues.

Well, in that case, it looks like we're guaranteed to go down for a number of years since District raised revenues have been declining rather than growing.

So the Federal payment, rather than helping to shore up the District, turns out to follow the District down. I'm very intrigued by what you say about inflation, and I certainly would like to invite you or the staff to share with me, as you get ideas on how you think a formula should be shaped, what those ideas are.

Because I would like before the end of this fiscal year to put a piece of legislation in on a Federal payment formula not because I expect to see it pass this year, but in order to get legislation passed in the Congress, you need to put it out there, let people react to it, let Members react to it, and then maybe the next year or the next you can get such a change in law.

Mr. BRIMMER. We'll be glad to do so.

Ms. NORTON. Thank you. Finally, I'd like to get your view on the declining revenue situation. As you can see, I am seriously concerned about the revenues notion.

And I must say as I've listened to various witnesses, I have had something of the feeling of, let me not say a spoon, of dipping the ocean out with a cup, if one looks at the long-term revenue picture for the District of Columbia.

First, let me ask whether you know if the District historically, I guess it was 2 years ago this began, experienced revenue declines, whether this is the radical departure it would seem to be.

I mean, is it not the case that you would expect revenues to go up even if only slightly each year? Has that been the pattern, and is the declining revenue picture of the last several years a new phenomenon in the financial life of the city?

Mr. BRIMMER. A decline in revenue is most unusual—or even stagnation in revenue is unusual. Some work I did back in 1986 using 1985 as a base and going 10 years beyond that back, the District's revenue had risen in step with revenue and income in the surrounding jurisdictions.

The principal reason was that the bases on which taxes were levied were rising. In some of those years, tax rates were rising as well, but fundamentally, the bases were rising.

For example, the sales tax revenue was rising because retail sales were rising roughly in step. Well, there was variations during business cycles and so on, but over the long run retail sales were rising at a pace not substantially slower than in the surrounding jurisdictions. Therefore, the sales tax revenues were rising.

With respect to property taxes, again, with property tax rates being constant or not changing very much, property values were rising. Home values were rising.

And when the city began to assess properties closer to market valuations, that guaranteed a rise in revenue. That has slowed down.

The retail sales were rising more slowly because sales migrate into the suburbs. Property tax yields, stagnant or declining, are

growing very slowly because property values are not rising very much.

And the big one, of course, is income taxes. Personal income in the District has been rising, but the fraction of that income subject to city income taxes has been going down.

Ms. NORTON. Why is that?

Mr. BRIMMER. For example, between 1990 and 1995 the personal income in the District rose by about 21 percent. In Maryland, the rise was 23.8 percent, and in Maryland it's 27.1 percent.

But the fraction of permanent income earned by residents in the District decreased from 45 percent in 1985 to 30 percent in 1995, and nonresidents received 55 percent of the person income earned in 1985, that was up to 70 percent.

Because the District cannot tax that personal income, the tax base that is rising most rapidly, personal income, cannot be tapped fully by the District.

And that's the biggest piece, that's the biggest explanation for why total revenue in the District is stagnant or declining.

Ms. NORTON. 1995 shows a decline in revenues of almost $200 million. Already, we're $100 million, apparently, down almost this year.

The CFO has said that the District will lose half a billion dollars in purchasing power by fiscal year 2000. He testified that there is a structural imbalance in the budget.

Revenue is growing, he says, at 1 percent while expenditure is climbing 6 percent a year. Of course, we've seen revenues declining here.

I am wondering on what basis we can say that, one, revenues are growing or can expect them to grow at all, and two, that there will be a balanced budget at the end of 4 years.

Mr. BRIMMER. Ms. Norton, let me tell you where I came out a little bit more on the analysis I've just summarized.

Based on the trend in personal income, I estimate that the District's income, and therefore revenue during the 4 years from the 1996 to 2000, might rise almost as rapidly as it did before.

But if you notice in the Mayor's budget, he shows that revenue will grow by 6 percent during the period 1996 to 2000. Tax revenue, and it's in this table attached to my statement, will grow by only 3.2 percent.

Outlays will rise by about 4.3 percent, and again, the reasons are exactly the ones I described earlier. Probably, the taxes rise slowly because of real estate values in the District are appreciating very little.

Sales tax revenue is relatively stagnant because much of the retail trade is migrating to the suburbs. I mention again the specifics I said about income taxes.

Unless there is a change in tax rates, you're not going to generate more revenue if the base is constant or eroding. That's the beginning and end of it.

Ms. NORTON. I see our dilemma. Thank you very much, Dr. Brimmer.

Mr. DAVIS. Dr. Brimmer, can you think of anything else you'd like to say before we sum up and let you go for the evening?

Mr. BRIMMER. No, Mr. Chairman. Thank you very much for the opportunity to appear. And again, if the conference bill is passed very soon and we get the $220 million, it will be very helpful.

If we don't, if we don't get the balance of the Federal payment very soon, the city will be in a far more pressing crisis not by the end of June but I was told today by sometime in May.

Mr. DAVIS. I don't even want to think about it, but thank you very much. Mr. Williams, Ms. Avant, thank you very much for testifying. If there is no other business to come before the meeting, the meeting will be adjourned.

[Whereupon, at 5:55 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

MAR 26 1996

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

MARION BARRY, JR
MAYOR

March 25, 1996

The Honorable Thomas Davis, Chairman
Subcommittee on the District of Columbia
415 Cannon House Office Building
U.S. House of Representatives
Washington, D. C. 20515

Dear Chairman Davis:

As you are aware, I vetoed two bills yesterday, specifically, Bill 11-588, the "Modified Reduction-In-Force Procedures Emergency Amendment Act of 1996," and Bill 11-589, the "Board of Education Modified Reduction-In-Force Procedures Emergency Amendment Act of 1996."

Let me first say that, without any question, I am solidly behind a reduction in the government workforce as noted in my transformation plan. In fact, beginning this January, in fiscal year 1996 we have reduced the government by 627 positions through reductions-in-force. By the end of this month, the D.C. Office of Personnel (DCOP) will have initiated reductions-in-force which will abolish another 174 positions. Additionally, DCOP will be conducting further reductions-in-force through the third quarter of the fiscal year. This downsizing began during the first year of my administration when the government workforce was significantly reduced through a combination of reductions-in-force and incentive programs.

Many have alleged that by vetoing these bills I am attempting to protect long-term employees. A careful reading of these bills will show, in each, specific language which notes that the provisions of these bills cannot be used when conducting a reduction in force for employees hired before January 1, 1980 until the Appropriations Act is approved by Congress and the President. However, once the Appropriations Act goes into effect, the modified reduction-in-force provisions contained therein will supersede the provisions in the bills I have vetoed. Therefore, their provisions would never be applied to pre-1980 employees.

While these particular bills are similar to the provisions for modified reductions-in-force contained in the previous Budget Support acts and the Fiscal Year 1996 Appropriations Act for the District of Columbia currently pending before Congress, I must say adamantly that there are differences that greatly impair employee rights.

Councilmember Kathleen Patterson (D-Ward 3), who introduced Bills 11-588 and 11-589, has stated that they are identical to the five pieces of Budget Support legislation that I signed previously. **If this were true, there would have been no need for Ms. Patterson's new emergency legislation.**

Councilmember Patterson is just plain wrong when she states that my veto is inconsistent with my transformation vision. In 1995, I downsized this government by 4,500 employees. In the last two months, I have downsized by 801 employees. Further RIFs are now being planned in 1996. By the year 2000, 10,000 more will be gone. I appreciate Ms. Patterson's intent and her sincerity, but her Bills 11-588 and 11-589 are just not good legislative items.

Bill 11-588, the "Modified Reduction-In-Force Procedures Emergency Amendment Act of 1996," differs in two major respects from the Fiscal Year 1996 Appropriations Act for the District of Columbia which is presently under Congressional review. Note that the first of these differences, discussed below, while consistent with previous Budget Support acts, differs from the language in the pending Appropriations Act. All others differ both from all previous Budget Support acts and the pending Appropriations Act. Specifically, they are:

1) **Elimination of the 5-year additional service credit for residency to our pre-1980 employees and former St. Elizabeths employees who accepted employment with the District government on October 1, 1987.**

   The "Budget Support Congressional Review Emergency Act of 1996" (Act 11-206), which is currently in effect and which was signed by me on February 9, 1996, also failed to provide the additional service credit to these two groups of employees who were specifically grandfathered in to be considered as District residents for purposes of residency under the Comprehensive Merit Personnel Act (CMPA). However, I was advised by my staff, in signing that emergency legislation (not being able to exercise a "line-item veto"), that this provision of the legislation, though deficient, could not take effect until approval of the Appropriations Act. Accordingly, upon Congressional approval of our budget, which incorporates the provision on additional service credit for pre-1980 hires and former St. Elizabeth employees, and also provides for equitable treatment to all employees, the provisions of the emergency legislation (Act 11-206) and all previous Budget Support acts would be superseded.

2) **Exemption of pre-1980 employees from the reduction-in-force until approval of the District's budget.**

   We are very concerned about the impact of this provision which would require the District to exempt pre-1980 employees from the proposed modified RIF procedures until the approval of the fiscal plan and budget. In contrast, the Budget Support acts would have delayed implementation of certain provisions until enactment of the Appropriations Act.

   We are concerned about the administrative difficulties which would be encountered in carrying out a reduction-in-force that excludes one segment of the workforce based on date of hire. In order to abolish positions among both groups of employees the District government would be required to apply different procedures to similarly situated employees in the same agency creating a highly unworkable reduction-in-force situation.

Bill 11-589, the "Board of Education Modified Reduction-In-Force Procedures Emergency Amendment Act of 1996," differs from the Budget Support acts and the Appropriations Act currently pending before Congress on three major issues. Specifically, they are:

1) **Separation of Board of Education employees pursuant to reduction-in-force with no competition or assignment rights.**

   Sec. 2(g) of Bill 11-589 specifically provides in a new § 2407(b) (of the District of Columbia Government Comprehensive Merit Personnel Act of 1978), "Notwithstanding any rights, past practices, or procedures established by any other provision of this title, any District government employee, regardless of the date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section." The current reduction-in-force procedures for Educational Service employees and the modified reduction-in-force procedures in the Budget Support Act, at a minimum, provide employees with one round of competition.

   There is a misconception that a modified reduction-in-force with one round of competition would allow for a higher paid employee to displace a lower paid employee. In fact, when there is one round of competition, employees compete only with employees in the same grade level and position type.

2) **The specific elimination of severance pay for all Board of Education employees separated pursuant to reduction-in-force.**

   Career Service employees under the personnel authority of the Board of Education are currently entitled to severance pay pursuant to Title XI of the Comprehensive Merit Personnel Act of 1978 (CMPA).

   While it is true that the Budget Support Act and Bill 11-589 both propose conversion of Career Service employees to the Educational Service, and subject to the Board of Education rules, the Budget Support Act does not specifically preclude or eliminate severance pay.

As for Educational Service employees, while there is no legal requirement that they receive severance pay, such a payment is permissible pursuant to Title XI of the CMPA for Educational Service employees. Additionally, I have been informed by the D.C Office of Pay and Retirement Services that Educational Service employees who were separated in 1993 pursuant to reduction-in-force did receive severance pay.

I should note, in rebuttal to Ms. Patterson's allegation that I submitted identical legislation, the fact is that my proposal would have modified the manner in which severance pay is computed, not totally eliminated severance pay.

At a minimum, the elimination of severance pay for the Board of Education employees without regard to collective bargaining and/or past practices, raises the possibility of constitutional challenges based upon the impairment of the contract claim. In addition, it remains the case that federal employees and nearly all private sector employees receive some form of severance.

3) **Exemption of pre-1980 employees from the reduction-in-force until approval of the District's budget.**

Our concerns on this particular issue are identical to those noted regarding Bill 11-588.

Although these differences, at first glance, may appear insignificant or inconsequential, I can assure you that the impact on our employees would be substantial. I vetoed this legislation because it was not in keeping with an orderly, respectful and deliberate downsizing of the District government. I vetoed this legislation because it is inconsistent with the legislation pending in Congress and with my transformation plan.

While downsizing, I will not "slash and burn" these dedicated employees while they are being furloughed, forced to work more than one job, denied promotions, denied in-step increases, denied pay raises, denied optical and dental benefits, and working with equipment shortages. Their morale is at rock bottom; I will not add insult to their injury. I will downsize government to be lean, but will not be mean doing it.

My transformation plan is well underway. It is a solid plan that gives direction out of these difficult times in order for us to fulfill our destiny of being America's first and greatest city. I invite Councilmember Patterson and all elected officials to work with me to find ways to downsize and rightsize this government in a respectful, deliberate, and orderly way.

Sincerely,

Marion Barry

Marion Barry, Jr.
Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE

Chief Financial Officer

441 4th ST., N.W.
11th Floor
Washington, D.C. 20001

APR 25 1996

The Honorable Thomas M. Davis, III
Committee On Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Congressman Davis:

Thank you for giving me the opportunity to address the issue of the University of the District of Columbia's (UDC) spending in excess of their budget authority. At the outset I want to reiterate my position that the University has overspent its approved operating budget authority for the past three fiscal years. According to the District Comprehensive Annual Financial Report (CAFR) the University's actual expenditures exceeded approved budget authority in fiscal year 1993, fiscal year 1994 and fiscal year 1995 (See Enclosure A)

The University of the District of Columbia is an enterprise fund, therefore, they are able to cover its budget deficit by using its fund balance or retain earnings. The fund balance of UDC includes non-cash entries such as plant fund depreciation allowances, write-offs of accounts receivable determined to be uncollectible, deferred revenue changes and other adjustments. This method of public accounting might be acceptable, but it does not negate the fact that the University's actual expenditures were higher than their budget authority for seven of the past nine years.

The University states that the District's Controller's analysis of appropriated budget did not indicate that UDC overspent its budget in fiscal year 1995. There are two explanations for this: First, the February 6, 1996 report from the Controller addressed only local funds and not all funding sources, and second, the Controller certifies overspending in enterprise funds only when the general fund is required to cover the deficit of the enterprise fund. UDC did not overspent its local funds nor did they request to cover the deficit by local funds.

I hope this letter clarifies the issue with respect to overspending. Once again, I thank you for the opportunity to go on the record on this matter. Please call me if you have any additional questions regarding this issue.

Sincerely yours,

Anthony A. Williams
Chief Financial Officer

Fiscal Years and Funds:	Appropriated	Expenditures	Difference
Fiscal Year 1993:			
Local Funds	67,796,000	67,796,000	0
Federal Funds	6,247,000	8,013,000	(1,766,000)
Other Funds	13,298,000	17,316,000	(4,018,000)
Intra-District	6,888,000	8,017,000	(1,129,000)
Total	94,229,000	101,142,000	(6,913,000)
Fiscal Year 1994:			
Local Funds	66,474,000	66,449,000	25,000
Federal Funds	6,659,000	9,194,000	(2,535,000)
Other Funds	31,826,520	18,593,000	13,233,520
Intra-District	7,230,000	6,520,000	710,000
Total	112,189,520	100,756,000	11,433,520
Fiscal Year 1994 Revised:			
Local Funds	66,474,000	66,449,000	25,000
Federal Funds	6,658,000	9,194,000	(2,536,000)
Other Funds	17,317,000	18,593,000	(1,276,000)
Intra-District	7,230,000	6,520,000	710,000
Total	97,679,000	100,756,000	(3,077,000)
Fiscal Year 1995:			
Local Funds	60,348,000	49,966,000	10,382,000
Federal Funds	7,694,000	9,468,000	(1,774,000)
Other Funds	15,228,000	17,238,000	(2,010,000)
Intra-District	6,498,000	6,423,000	75,000
Total	89,768,000	83,095,000	6,673,000
Fiscal Year 1995 Revised:			
Local Funds	49,966,000	49,966,000	0
Federal Funds	10,754,000	9,468,000	1,286,000
Other Funds	16,054,000	17,238,000	(1,184,000)
Intra-District	6,486,000	6,423,000	63,000
Total	83,260,000	83,095,000	165,000

Note. - FY 1995 Revised never approved by Congress.

Source: Congressional Justifications.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

Fiscal Years and Funds:	Appropriated	Expenditures	D.
Fiscal Year 1987:			
Local Funds	70,215,000	70,215,000	0
Federal Funds	6,128,000	4,923,000	1,205,000
Other Funds	10,701,000	5,701,000	5,000,000
Intra-District	1,344,000	1,859,000	(515,000)
Total	88,388,000	82,698,000	5,690,000
Fiscal Year 1988:			
Local Funds	71,667,000	71,667,000	0
Federal Funds	4,768,000	4,974,000	(206,000)
Other Funds	9,568,000	9,751,000	(183,000)
Intra-District	1,229,000	2,507,000	(1,278,000)
Total	87,232,000	88,899,000	(1,667,000)
Fiscal Year 1989:			
Local Funds	74,310,000	74,310,000	0
Federal Funds	4,786,000	4,648,000	138,000
Other Funds	10,083,000	11,296,000	(1,213,000)
Intra-District	2,322,000	2,954,000	(632,000)
Total	91,501,000	93,208,000	(1,707,000)
Fiscal Year 1990:			
Local Funds	75,358,000	74,958,000	400,000
Federal Funds	4,789,000	6,174,000	(1,385,000)
Other Funds	9,900,000	12,839,000	(2,939,000)
Intra-District	2,334,000	4,275,000	(1,941,000)
Total	92,381,000	98,246,000	(5,865,000)
Fiscal Year 1991:			
Local Funds	73,495,000	73,495,000	0
Federal Funds	4,680,000	5,663,000	(983,000)
Other Funds	11,121,000	13,430,000	(2,309,000)
Intra-District	3,906,000	5,161,000	(1,255,000)
Total	93,202,000	97,749,000	(4,547,000)
Fiscal Year 1992:			
Local Funds	73,495,000	73,495,000	0
Federal Funds	4,898,000	7,102,632	(2,204,632)
Other Funds	12,919,000	12,543,800	375,200
Intra-District	4,299,000	7,598,494	(3,299,494)
Total	95,611,000	100,739,926	(5,128,926)