

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Toni S. Hustead to Ellen S. Seidman at 16:09:38.00. Subject: Re: pension info package. [partial] (1 page)	04/04/1997	b(6)
002. email	Ellen S. Seidman to pacelli.jane at 07:27:37.00. Subject: draft. [partial] (1 page)	04/23/1997	b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([PBGC])
OA/Box Number: 250000

FOLDER TITLE:

[03/29/1997 - 05/05/1997]

Adam Bergfeld
2014-0226-F
ab1480

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:29-MAR-1997 10:26:48.00

SUBJECT: PBGC edits to Funding

TO: Barry B. Anderson (CN=Barry B. Anderson/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Franklin D. Raines (CN=Franklin D. Raines/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

Daniel M. Tangherlini (CN=Daniel M. Tangherlini/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

Lisa M. Kountoupes (CN=Lisa M. Kountoupes/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

As we have discussed earlier, Toni Hustead has led an effort to discribe how the obligations of the Federal government under the DC plan might be funded. She has worked closely with BRD in crafting this solution. It has not yet been shared with District officials. We anticipate a hearing shortly before Mr.Mica at which this issue will be discussed. If we are going to adopt this strategy, it might be a good idea to do so before this time.

----- Forwarded by G. E. DeSeve/OMB/EOP on 03/29/97 10:25 AM -----

Toni S. Hustead

03/28/97 01:53:52 PM

Record Type: Record

To: G. E. DeSeve/OMB/EOP, Scott Quehl/OMB/EOP

cc:

Subject: PBGC edits to Funding

The attached note is the comment we got from Jane on the paper. In case you want this "safe-guard" change, I have included it in this version attached.

----- Forwarded by Toni S. Hustead/OMB/EOP on 03/28/97
12:49 PM -----

Pacelli.Jane @ pbgc.gov

03/28/97 12:13:00 PM

Record Type: Record

To: Toni S. Hustead

cc:

Subject: Your Funding Memo

Several people here have raised a concern about the language in the last two sentences of the first full paragraph on page 3, in the event that a copy of the memo leaks out (which sometimes happens). If you ended the penultimate sentence with

" . . . immediately recognized." and deleted the rest ("-- and, if needed, . . . reduced benefits by 28%].") it would not change the meaning and would be less inflammatory.

We are soliciting comments on the memo in general and will get back to you probably on Monday.

#####

Any views expressed by the author of this message are not those of
the Pension Benefit Guaranty Corporation.

#####

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D39]MAIL492673780.016 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IH1A8OWICG009XKN@PMDF.EOP.GOV> for "Toni S. Hustead"@oa.eop.gov; Fri,
28 Mar 1997 12:06:49 -0500 (EST)

Received: from gatekeeper.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IH1A8LLVVK014LDH@PMDF.EOP.GOV> for Toni_S._Hustead@oa.eop.gov; Fri,
28 Mar 1997 12:06:45 -0500 (EST)

Received: from MAIL.PBGC.GOV by gatekeeper.eop.gov;
(5.65v3.2/1.1.8.2/17Oct95-0424PM) id AA23034; Fri, 28 Mar 1997 12:06:41 -0500

Received: from Microsoft Mail (PU Serial #1484)
by mail.pbgc.gov (PostalUnion/SMTP(tm) v2.1.9a for Windows NT(tm))
id AA-1997Mar28.120100.1484.305149; Fri, 28 Mar 1997 12:13:53 -0500

Organization: Pension Benefit Guaranty Corporation

X-Mailer: Microsoft Mail via PostalUnion/SMTP for Windows NT

===== END ATTACHMENT 2 =====

Funding the Federal Government's DC Pension Liability

The Federal government proposes to assume a portion of the District of Columbia (DC) Retirement System liability and some or all of its assets to date. Future benefits paid to retirees and survivors would first be paid from the conveyed assets of the DC Retirement Fund until depleted. Ownership of the conveyed DC Retirement Fund assets would be transferred to the Federal government, and liquidated as needed to fund benefit payments. The annual benefit payments would be Federal outlays and the liquidated assets would be offsetting receipts. These assets are mainly private securities, even though they would be government owned. This paper will refer to the portfolio as the "Original DC Pension Fund" for simplicity purposes.

Since the assets will not cover all of the benefits assumed by the Federal government, a Federal unfunded liability (UFL) is created. It is generally understood that the Original DC Pension Fund will cover benefits until well after 2002.

What Impacts the Deficit in Any One Year?

Somewhat simplified, the only transactions in a particular year that directly affect the Federal deficit are those paid into or out of the government such as tax collections and payments to retirees. An intragovernmental transfer consists of a debit from one government account and a credit to another. These two transactions cancel each other out and have no direct effect on the deficit. An example of an intragovernmental transfer is a payment of interest by the Treasury to a government trust fund.

Should Conveyed DC Assets be Immediately Liquidated and Reinvested in U.S. Treasury Securities?

An examination of the current investment portfolio has been requested, but it is likely that reinvesting assets could be problematic on many levels. Keeping these assets invested in private securities has meant higher investment returns traditionally. Obviously, larger interest income delays the Original DC Pension Fund depletion and the need for supplemental Federal outlays.

If assets were immediately liquidated and reinvested in Treasury securities, it would reduce the deficit in the first year but increase it in all future years. Investments in Treasury securities do not require outlays. In the first year, offsetting receipts to the government would increase by the proceeds from selling the assets; however, government expenditures would increase by the amount of payments to retirees and survivors. Since these expenditures would be lower than the receipts, the deficit in that year would be lowered. In the second year, there would be no new receipts to the government, but

government outlays would again increase by the amount paid annuitants. In this year and all future years, the deficit would increase by these outlays.

Leaving existing DC pension assets in private securities is the only way to avoid annual deficit increases starting in FY 1999. The remaining part of this paper will assume that the private security portfolio continues to exist.

To Fund or Not to Fund the Federal Subsidy?

The question of whether the UFL that the government assumes should be funded immediately, or should be treated on a pay-as-you-go basis as unfunded entitlements should be explored.

A trust fund could be created inside the Federal budget to fund the UFL that the government assumes.

Again, for simplicity purposes, let us refer to the assets that build over time in the Federal trust fund as the "Federal Supplemental DC Pension Fund". At inception an actuarial valuation will determine the UFL equal to the present value of future benefits (assumed by the Federal government) minus the Original DC Pension Fund.

This UFL can be amortized over a specified period of time. For example, a thirty-year amortization period would mean that 30 equal annual payments with interest (under an assumed interest income rate) would pay off the UFL. The initial actuarial valuation would determine this payment amount and the Treasury would transfer (debit) this amount into the Federal Supplemental DC Pension Fund (credit) each year. Since the Federal Supplemental DC Pension Fund is within the Federal budget, this is an intragovernmental transfer and would not alter the deficit in that year.

When the Federal Supplemental DC Pension Fund receives the income it will invest (debit) its assets in special issue Treasury obligations (credit) bearing interest at rates determined by the Secretary of the Treasury taking into consideration current market yields for outstanding marketable U.S. obligations of comparable maturities. Each year the Treasury will pay (debit) interest to the Federal Supplemental DC Pension Fund (credit). These are all intragovernmental transfers with no impact on the deficit. However, the purchase of securities by the Federal Supplemental DC Pension Fund will increase the gross Federal debt and the debt subject to statutory limit, specifically the portion of the debt held by government accounts. The portion held by the public will not change. The increase in the debt subject to statutory limit would be relatively so small that it would probably have only a negligible effect on the timing of the next debt limit increase and the political issues surrounding that legislation. *[Note: this arrangement mirrors the funding of other retirement systems in the Federal government such as the military retirement system].*

Each year the Federal Supplemental DC Pension Fund will increase in size by the new UFL payment and the new interest income. No benefit payments would be made from this fund until the year that the Original DC Pension Fund is expended - hence net Federal outlays (outlays with no offsetting receipts) will not change until that time. Let us assume hypothetically that the Original DC Pension Fund will be depleted in FY 2010. In that year the Federal Supplemental DC Pension Fund will pay payments to retirees and survivors. This will be the first time that the Federal deficit will be affected by the Federal assumption of the DC pension liability and assets, as it will increase in that year by the amount paid out to these annuitants. If it is decided not to prefund these liabilities, using a pay-as-you-go system instead, the deficit effect would be the same.

In summary, a decision on whether to prefund the government's UFL can be made without regard to deficit implications. Then why fund? Funding immediately alerts the Administration to the long-term cost implications of unexpected annual experience (inflation, pay increases, mortality, actual interest income, etc). This is important because the DC government will be able to implement human resource decisions that could significantly increase the Federal UFL in any one year (such as unexpectedly large pay increases to enhance performance). Placing restrictions in the law to cover the numerous situations like this, would be very cumbersome and no doubt restrictive. However, actuarial funding will ensure that the long-term cost implications of experience deviations will be immediately recognized.

Funding also provides a certain level of security in that until the Federal Supplemental DC Pension Fund runs dry it would be hard not to rationalize paying benefits to annuitants when due. One could argue that since funding does not affect the deficit, that this security is superficial. If this were entirely so, the current focus on when the Medicare Trust Funds will run dry would instead be focussed on the time that Medicare outlays exceed Medicare receipts.

How Would Annual Changes in UFL Be Determined and Funded?

Most actuarial funding scenarios require adjustments to the UFL annually. The initial UFL will be calculated using hundreds of assumptions (demographic and economic). If each assumption is completely accurate year-after-year, then the thirtieth annual payment of the amortization schedule, used in the example above, would completely liquidate the unfunded liability. Actuaries are human! Their assumptions are best estimates of experience over the long-term, but each year overall actual experience will certainly deviate from expected experience (gains and losses).

Each subsequent annual actuarial valuation will produce a current actual UFL and will analyze how that UFL deviates from the expected UFL in that year. In addition to annual experience gains and losses, there could also be changes in the UFL due to changes in actuarial assumptions and changes in

plan benefits. Since the DC government will have to fund any plan amendments, the latter is not expected to play a role in the Federal DC pension liability. A new annual amortization schedule would be set up to amortize the difference between the actual and expected UFL. This new stream of supplemental payments 'corrects' the stream of payments on the initial UFL (and could be negative or positive). The total payment required by the sum of all of the amortization payments for the year would be transferred to the Federal Supplemental DC Pension Fund by the Treasury.

The Federal government's UFL at any one time would be equal to the present value of future benefits minus the combined value of the assets in both the Original DC Pension Fund and the Federal Supplemental DC Pension Fund. Consequently, if either fund earned interest at a rate greater than or less than assumed, it would be reflected in the annual experience adjustment.

Recommendation

I recommend funding the Federal DC Pension UFL within the Federal budget. The legislation could closely resemble that created in FY 1984 to fund the military retirement system (chapter 74 of title 10, U.S.C.).

By: Toni Hustead (395-4500)

g:\dc\fundplan.wpd

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:31-MAR-1997 09:39:20.00

SUBJECT: Re: PBGC edits to Funding

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Barry B. Anderson (CN=Barry B. Anderson/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Franklin D. Raines (CN=Franklin D. Raines/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

I would like the opportunity to convince you that it is not just smoke and mirrors. Perhaps a meeting is in order.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:31-MAR-1997 09:20:17.00

SUBJECT: Re: PBGC edits to Funding

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Franklin D. Raines (CN=Franklin D. Raines/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Barry B. Anderson (CN=Barry B. Anderson/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

As you know, I am not at all convinced we should pursue this strategy. It is smoke and mirrors, and I think ultimately will buy us more trouble than it avoids now -- I also don't think it will avoid all that much trouble now once people understand it's just moving federal chits around. I'd like to make certain Frank is aware of my views.

ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:31-MAR-1997 17:08:49.00

SUBJECT: PENSION BENEFIT GUARANTY CORP. REPORTS FIRST FINANCIAL ...

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

----- Forwarded by Jonathan A. Kaplan/OPD/EOP on 03/31/97
05:05 PM -----

HORWITZ_R @ A1
03/31/97 04:49:00 PM

Record Type: Record

To: Michelle Crisci, Jonathan A. Kaplan

cc:

Subject: PENSION BENEFIT GUARANTY CORP. REPORTS FIRST FINANCIAL ...

Date: 03/31/97 Time: 16:32

PPension Benefit Guaranty Corp. reports first financial surplus

WASHINGTON (AP) The federal fund that backs pensions reported its first-ever surplus on Monday. Meanwhile, President Clinton urged Congress to pass reforms that would improve retirement fund audits.

“Our people deserve to know that if they work hard throughout their lives, the money they worked for and that they saved is not being squandered or left unprotected,” Clinton said.

In an annual report to the president, the Pension Benefit Guaranty Corp. reported a \$869 million year-end surplus.

Clinton noted that was a major turnaround from the time he took office in 1992, when the PBGC was running a \$3 billion deficit.

White House officials attributed the gains to pension reforms pushed by Clinton and passed by Congress in 1994 and to a strong economy, which resulted in fewer pension plan bailouts.

While the PBGC is in good shape, the shortfall between promised pension benefits from the single-employer plans that it insures and the money set aside to pay for them was \$64 billion at the end of 1995.

That was more than double the shortfall at the end of 1994, and the growing gap was blamed on declining interest rates, which cut the fund's revenues.

Also Monday, the Labor Department said a crackdown on 401(k) plan abuses by employers netted \$22 million in paybacks over the past two years.

“While the vast majority of those plans are safe, we stepped up

our enforcement against employers who spend or borrow their employees' pension contributions," Clinton said.

When Congress passed the 1994 pension reform package, it left out a provision that would have closed what Clinton said was a loophole allowing pension funds representing \$950 million to avoid detailed audits.

Administration officials said legislation to require that those funds be reviewed periodically by qualified auditors would be sent to Capitol Hill later this month.

APNP-03-31-97 1643EST

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:31-MAR-1997 11:03:20.00

SUBJECT: Re: PBGC edits to Funding

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

Sure; happy to meet. Can you set something up; choose how many and who you want. One-on-one is fine, but I'm happy do do it with more. ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:31-MAR-1997 17:25:12.00

SUBJECT: Re: PENSION BENEFIT GUARANTY CORP. REPORTS FIRST FINANCIAL ...

TO: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Jon, as you expected, there is a mistake. The paragraph about underfunding implies that the PBGC's fund is short \$64 billion. Of course, that's the sum of all the indiivdual underfunded plans, and not the PBGC. Should we try to get a correction? ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cheryl M. Carter (CN=Cheryl M. Carter/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 1-APR-1997 14:57:37.00

SUBJECT: Health Care Commission

TO: Lynn A. Jennings (CN=Lynn A. Jennings/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Peggy A. Clark (CN=Peggy A. Clark/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Barbara D. Woolley (CN=Barbara D. Woolley/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

Peter O'Keefe (CN=Peter O'Keefe/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:

As you know I've been in communication with AT&T about the commission. They told us that Bob Allen couldn't do it but they would be interested in having one of their other CEO's from a subsidiary company serve. They came back today to say that they would like to explore the possibility of Mike Gulotta, CEO, Acutarial Sciences Association (an AT&T company which purchases their health care coverage) serving on the Commission. The only problem is that he has been asked to serve on the PBGC and wants to definitely do that.

Two things...I need to know how you would feel about Gulotta serving on the Commission and if that would suit your needs, if he could serve on both PBGC and Health Care at the same time.

Please advise.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 1-APR-1997 13:54:05.00

SUBJECT: Re: PBGC edits to Funding

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

How about your office at 4 p.m. tomorrow? Scott would like to join us.

If not a good time, when? Where is your office?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 1-APR-1997 16:08:01.00

SUBJECT: Re: PBGC edits to Funding

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
How about 5:30 your office?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 1-APR-1997 14:52:21.00

SUBJECT: Re: PBGC edits to Funding

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

Toni, that's fine, and my office is 234 in the old building, but on the other hand, we're meeting with Frank at 11:30 tomorrow and there's a possibility this issue will come up. If we could talk today or tomorrow between 10 and 11:30, that probably would be better than later. ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Barry B. Anderson (CN=Barry B. Anderson/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 2-APR-1997 09:43:32.00

SUBJECT: Re: PBGC edits to Funding

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Franklin D. Raines (CN=Franklin D. Raines/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I am on leave now, but I will be back Monday. I would very much like to attend a meeting on this subject if one is set up.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 2-APR-1997 11:19:04.00

SUBJECT: Re: PBGC edits to Funding

TO: Barry B. Anderson (CN=Barry B. Anderson/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Franklin D. Raines (CN=Franklin D. Raines/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

If you snooze you lose. Seriously, we will be happy to set up a meeting with you to discuss the options. We will generally discuss it with the Director today. If he is favorably disposed to it, we will schedule an in house meeting ASAP. Enjoy the rest of the week.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 4-APR-1997 16:07:56.00

SUBJECT: Re: pension info package

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I think PBGC input might be useful. What do you think? ellen

PS The new answer looks fine; I admit to having wondered about those two issues as I was writing my version.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Toni S. Hustead to Ellen S. Seidman at 16:09:38.00. Subject: Re: pension info package. [partial] (1 page)	04/04/1997	b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([PBGC])
OA/Box Number: 250000

FOLDER TITLE:

[03/29/1997 - 05/05/1997]

2014-0226-F
ab1480

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 4-APR-1997 16:09:38.00

SUBJECT: Re: pension info package

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Thanks, Ellen --- what a relief!

The PBGC folks will be happy to see that your revision on the last question skirted the issue of PBGC certifying etc (I am sure in the end they could be convinced if you desire, but it is good not to have to address this right now). Let me know if you have any other edits before Tuesday a.m. and I can get them in the next draft for this meeting. (b)(6)

[00]

(b)(6)

TONI

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ OMB))

CREATION DATE/TIME: 7-APR-1997 18:11:36.00

SUBJECT: Q and A and Sample document

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Marcia D. Occomy (CN=Marcia D. Occomy/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Harry G. Meyers (CN=Harry G. Meyers/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Bruce D. Long (CN=Bruce D. Long/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

This is the version of the document that was completed by Treasury
actuaries, PBGC actuaries and lawyers, and me today. We can discuss
any changes you want made in tomorrow's meeting.===== ATTACHMENT 1
=====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D94]MAIL48565669U.016 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

Federal Proposal for the District of Columbia Retirement Systems

Question: What is the Federal proposal for the District of Columbia Retirement Systems?

Answer: The proposal is for the Federal government to assume responsibility for most of the current unfunded liability of the retirement systems. The current manner in which the retirement systems are funded leaves a growing unfunded liability. The Federal assumption of most of the unfunded liability will reduce the heavy current and outyear financial obligations of the District of Columbia.

Question: What retirement plans would be affected?

Answer: The Federal government will assume most of the current unfunded liability for the DC Teachers Retirement Plan and the DC Police Officers and Firefighters Retirement Plans. The DC Judges Retirement Plan will be totally a Federal responsibility.

Question: How will employees' benefits be determined under the proposal?

Answer: The Federal government assumes liabilities for all retirement benefits accrued before the freeze date, which will be the date of introduction of the bill. *In regard to employees already retired as of the freeze date:* the Federal government will be responsible for paying all future retirement benefits (including cost-of-living increases). Benefits for these retirees would remain unchanged by this proposal. *In regard to employees not yet retired as of the freeze date:* the Federal government assumes liabilities for all retirement benefits accrued before the freeze date. These benefits will be adjusted to include increases attributable to pay increases and cost-of-living adjustments after the freeze date. The District will enact replacement plans to provide benefits for service after the freeze date. Should replacement plans continue current provisions, then benefits for those who retire in the future would remain unchanged by this proposal.

Question: Will the Federal government provide cost-of-living adjustments to retirement benefits?

Answer: Benefits assumed by the Federal government will be increased by the methods outlined under the provisions of the current plans of the District of Columbia.

Question: How will future employee contributions to the plans be split?

Answer: All employee contributions made after the freeze date will go to the plans established by the District of Columbia.

Question: How will current assets be split?

Answer: The majority of current assets will be transferred to the Federal government and will be used to pay the Federal government's portion of the benefits until depleted. Some assets will be left with DC so that, when combined with employee contributions, the District has funds to pay the DC portion of benefits for the period shortly after the transfer.

Question: Will the assets transferred to the Federal government be liquidated and re-invested in Federal securities?

Answer: No. The current portfolio will continue to be actively managed.

Question: How will the Federal government's obligation to pay the District of Columbia's pension benefits be recognized in the federal budget?

Answer: On the effective date of the Federal assumption, the District's consulting actuary will determine the Federal government's newly acquired District's pension unfunded liability. As is the case of most Federal pension liabilities, the Federal government will determine the amount needed to amortize the unfunded liability (over 30 years in equal annual installments), and will establish a trust fund -- to be invested in special issue Treasury obligations -- to account for the unfunded liability. On the effective date of the Federal assumption, the first installment of the required amortization will be transferred from the Treasury to the trust fund. Each year the fund would receive 1) an initial unfunded liability amortization payment, 2) amortization payments to fund actuarial experience, and 3) interest income. When the original transferred assets are depleted, Federal obligations will be paid from this Federal Supplemental DC Pension Fund.

g:\dc\samples.wpd

DC Teachers Retirement Example

Example: This teacher retires on September 30, 1999, with an average pay of \$36,000, with 20 years of service (including at least 5 years of school service), and at the age of 60. Consequently, benefits attributable to the first 18 years of service are payable by the Federal government, and the benefits attributable to the last 2 years of service are payable by the District of Columbia.

Voluntary Retirement Benefit	Current Plan	Proposal	
	DC	Federal	DC
1.5% of average pay times service up to 5 years <i>plus</i>	\$2,700 <i>(.015 x 36,000 x 5)</i>	\$2,700 <i>(.015 x 36,000 x 5)</i>	
1.75% of average pay times service between 5 & 10 years <i>plus</i>	\$3,150 <i>(.0175 x 36,000 x 5)</i>	\$3,150 <i>(.0175 x 36,000 x 5)</i>	
2% of average pay times service over 10 years <i>equals</i>	\$7,200 <i>(.02 x 36,000 x 10)</i>	\$5,760 <i>(.02 x 36,000 x 8)</i>	\$1,440 <i>(.02 x 36,000 x 2)</i>
Annual Basic Benefit	\$13,050	\$11,610	\$1,440
		\$13,050	

All examples assume that (1) the Federal government assumes liabilities for all retirement benefits accrued before the freeze date, (2) the freeze date is October 1, 1997, and (3) the District adopts a replacement plan that continues the provisions of the current plan after the freeze date.

DC Police Officers & Firefighters Retirement Example Hired Before February 15, 1980

Example: This police officer retires on September 30, 1999, with an average pay of \$44,000, with 30 years of service (25 departmental; 5 credited), and at the age of 52. Consequently, benefits attributable to the first 28 years of service are payable by the Federal government, and benefits attributable to the last 2 years of service are payable by the District of Columbia..

Basic Retirement	Current Plan	Proposal	
	DC	Federal	DC
2.5% of average pay times departmental service up to 20 years <i>plus</i>	\$22,000 (.025 x 44,000 x 20)	\$22,000 (.025 x 44,000 x 20)	
3.0% of average pay times departmental service over 20 years <i>plus</i>	\$6,600 (.03 x 44,000 x 5)	\$3,960 (.03 x 44,000 x 3)	\$2,640 (.03 x 44,000 x 2)
2.5% of average pay times credited service <i>equals</i>	\$5,500 (.025 x 44,000 x 5)	\$5,500 (.025 x 44,000 x 5)	
Annual Pension Payable	\$34,100	\$31,460	\$2,640
		\$34,100	

All examples assume that (1) the Federal government assumes liabilities for all retirement benefits accrued before the freeze date, (2) the freeze date is October 1, 1997, and (3) the District adopts a replacement plan that continues the provisions of the current plan after the freeze date.

DC Police Officers & Firefighters Retirement Example

Hired On or After February 15, 1980

Example: This firefighter retires on September 30, 2010, with an average pay of \$40,000, with 30 years of service (28 departmental; 2 credited), and at the age of 52. Consequently, benefits attributable to the first 17 years of service are payable by the Federal government, and benefits attributable to the last 13 years of service are payable by the District of Columbia..

Basic Retirement	Current Plan	Proposal	
	DC	Federal	DC
2.5% of average pay times departmental service up to 25 years <i>plus</i>	\$25,000 (.025 x 40,000 x 25)	\$15,000 (.025 x 40,000 x 15)	\$10,000 (.025 x 40,000 x 10)
3.0% of average pay times departmental service over 25 years <i>plus</i>	\$3,600 (.03 x 40,000 x 3)		\$3,600 (.03 x 40,000 x 3)
2.5% of average pay times credited service <i>equals</i>	\$2,000 (.025 x 40,000 x 2)	\$2,000 (.025 x 40,000 x 2)	
Annual Pension Payable	\$30,600	\$17,000	\$13,600
		\$30,600	

All examples assume that (1) the Federal government assumes liabilities for all retirement benefits accrued before the freeze date, (2) the freeze date is October 1, 1997, and (3) the District adopts a replacement plan that continues the provisions of the current plan after the freeze date.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 8-APR-1997 12:00:54.00

SUBJECT: DC Pension Paper for Release

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Robert B. Rideout (CN=Robert B. Rideout/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Daniel M. Tangherlini (CN=Daniel M. Tangherlini/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Bruce D. Long (CN=Bruce D. Long/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Lawrence J. Haas (CN=Lawrence J. Haas/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Marcia D. Ocomy (CN=Marcia D. Ocomy/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Carol Thompson-Cole (CN=Carol Thompson-Cole/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

This is the document that you want to distribute to the union
representatives to the DC Retirement Board tomorrow. I have made all of

the changes that you, Ellen, and others asked for in the meeting today.
I will also send this document back to PBGC for one last scrutiny. Please
let me know if any other changes are desired (by anyone). I will print
out the final version tomorrow a.m. early -- and produce many copies for
your meeting.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D28]MAIL44133479F.016 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

Federal Proposal for the District of Columbia Retirement Systems

Question 1: What is the Federal proposal for the District of Columbia Retirement Systems?

Answer: The proposal is for the Federal government to assume responsibility for most of the current unfunded liability of the retirement systems. The current manner in which the retirement systems are funded leaves a growing unfunded liability. The Federal assumption of most of the unfunded liability would reduce the heavy current and outyear financial obligations of the District of Columbia.

Question 2: What retirement plans would be affected?

Answer: The Federal government would assume most of the current unfunded liability for the DC Teachers Retirement Plan and the DC Police Officers and Firefighters Retirement Plan. The DC Judges Retirement Plan would be totally a Federal responsibility.

Question 3: How would employees' benefits be determined under the proposal?

Answer: The Federal government would assume liabilities for all retirement benefits accrued before the freeze date, which would be the date of introduction of the bill. *For employees already retired as of the freeze date:* the Federal government would be responsible for paying all future retirement benefits (including cost-of-living increases). Benefits for these retirees would remain unchanged by this proposal. *For employees not yet retired as of the freeze date:* the Federal government would assume liabilities for all retirement benefits accrued before the freeze date. These benefits would be adjusted to include increases attributable to pay increases and cost-of-living adjustments after the freeze date. The District would enact replacement plans to provide benefits for service after the freeze date. Should replacement plans continue current provisions, then benefits for those who retire in the future would remain unchanged by this proposal.

Question 4: Would the Federal government provide cost-of-living adjustments to retirement benefits?

Answer: Benefits assumed by the Federal government would be increased by the methods outlined under the provisions of the plans of the District of Columbia.

Question 5: How would future employee contributions to the plans be split?

Answer: All employee contributions made after the freeze date would go to the plans established by the District of Columbia.

Question 6: How would current assets be split?

Answer: The majority of current assets would be transferred to the Federal government and would be used to pay the Federal government's portion of the benefits until depleted. Some assets would be left behind so that, when combined with employee contributions, the District would have funds to pay the DC portion of benefits for the period shortly after the transfer.

Question 7: Would the assets transferred to the Federal government be liquidated and re-invested in Federal securities?

Answer: No. The current portfolio would continue to be actively managed.

Question 8: How would the Federal government's obligation to pay the District of Columbia's pension benefits be recognized in the federal budget?

Answer: On the effective date of the Federal assumption, the District's consulting actuary would determine the Federal government's newly acquired District's pension unfunded liability. As is the case of most Federal pension liabilities, the Federal government would determine the amount needed to amortize the unfunded liability (over 30 years in equal annual installments), and would establish a trust fund -- to be invested in special issue Treasury obligations -- to account for the unfunded liability. On the effective date of the Federal assumption, the first installment of the required amortization would be transferred from the Treasury to the trust fund. Each year the fund would receive 1) an initial unfunded liability amortization payment, 2) amortization payments to fund actuarial experience, and 3) interest income. When the original transferred assets are depleted, Federal obligations would be paid from this Federal Supplemental DC Pension Fund.

g:\dc\samples wpd

DC Teachers Retirement Example

Illustration: This teacher retires on May 31, 1999, with an average pay of \$36,000, with 20 years of service (including at least 5 years of school service), and at the age of 60. Consequently, benefits attributable to the first 18 years of service are payable by the Federal government, and the benefits attributable to the last 2 years of service are payable by the District of Columbia.

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Annual Basic Benefit	\$13,050	\$11,610	\$1,440
		\$13,050	

All examples assume that (1) the Federal government assumes liabilities for all retirement benefits accrued before the freeze date, (2) the freeze date is June 1, 1997, and (3) the District adopts a replacement plan that continues the provisions of the current plan after the freeze date.

*Illustration Prepared for Preliminary Discussions
Federal Proposal for the District of Columbia Retirement Systems*

DC Police Officers & Firefighters Retirement Example Hired Before February 15, 1980

Illustration: This police officer retires on May 31, 1999, with an average pay of \$44,000, with 30 years of service (25 departmental; 5 credited), and at the age of 52. Consequently, benefits attributable to the first 28 years of service are payable by the Federal government, and benefits attributable to the last 2 years of service are payable by the District of Columbia..

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Hired On or After February 15, 1980

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Annual Pension Payable	\$30,600	\$17,000	\$13,600
		\$30,600	

All examples assume that (1) the Federal government assumes liabilities for all retirement benefits accrued before the freeze date, (2) the freeze date is June 1, 1997, and (3) the District adopts a replacement plan that continues the provisions of the current plan after the freeze date.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-APR-1997 09:54:48.00

SUBJECT: PBGC note from POTUS

TO: Russell W. Horwitz (CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Jake Siewert (CN=Jake Siewert/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
For weekly report.

Last week, POTUS sent note on WSJ column to Gene re PBGC solvency. We are told that the WSJ will run a letter next week from PBGC's CFO in response. Ellen worked with PBGC in drafting.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:11-APR-1997 17:01:39.00

SUBJECT: Re: PBGC edits to Funding

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

did this ever get resolved to your satisfaction?

----- Forwarded by Michael Deich/OMB/EOP on 04/11/97

05:04 PM -----

Ellen S. Seidman

03/31/97 09:22:34 AM

Record Type: Record

To: G. E. DeSeve/OMB/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: PBGC edits to Funding

As you know, I am not at all convinced we should pursue this strategy. It is smoke and mirrors, and I think ultimately will buy us more trouble than it avoids now -- I also don't think it will avoid all that much trouble now once people understand it's just moving federal chits around. I'd like to make certain Frank is aware of my views.

ellen

Message Copied

To: _____

Michael Deich/OMB/EOP

Carol Thompson-Cole/OMB/EOP

Barry B. Anderson/OMB/EOP

Franklin D. Raines/OMB/EOP

Toni S. Hustead/OMB/EOP

Robert B. Rideout/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:14-APR-1997 08:30:29.00

SUBJECT: Re: PBGC edits to Funding

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Yes, I think. Frank agreed that it was worth doing for internal accounting and responsibility reasons, but that we shouldn't oversell it on the outside as providing any more security than the full faith and credit promise. Then Ed decided he hadn't vetted it with enough people, so when we talked to the retirement board and unions we didn't mention it -- and nothing bad happened. I still think Ed intends to go forward, but mainly for internal controls, for which it does have some meaning. ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cheryl M. Carter (CN=Cheryl M. Carter/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:15-APR-1997 14:52:03.00

SUBJECT: Health Care Commission

TO: Lynn A. Jennings (CN=Lynn A. Jennings/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I heard from AT&T yesterday that Gulotta is extremely interested in serving...he just wants to be sure that it will not effect his service on PBGC. Any decision yet? Please advise.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:17-APR-1997 17:26:02.00

SUBJECT: Conference Call with PBGC

TO: Mary M. Chuckerel (CN=Mary M. Chuckerel/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
Mary,

Please arrange for a conference call Friday morning (tomorrow) with Ed, Ellen Seidman, Toni Hustead, and me from our end, and Terry Deneen and Stuart Sirkin of the PBGC (326-4080 ex. 3163 for Stuart and/or 326-4020 for Terry.

Subject: policy guidance for PBGC's legislative drafting of the President's pension proposal.

Don't worry about scheduling around the 10:30 DC Budget meeting, it's been cancelled until 5:30pm next Tuesday (more on this in a minute).

Scott

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:17-APR-1997 17:52:23.00

SUBJECT: Re: Conference Call with PBGC

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Mary M. Chuckerel (CN=Mary M. Chuckerel/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
I am tied up from 10 to 2 tomorrow in irreversible events (including
mandatory ethics training).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melissa Y. Cook (CN=Melissa Y. Cook/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:17-APR-1997 11:35:40.00

SUBJECT: Re: Status Report on the Two Pension Bills

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Larry R. Matlack (CN=Larry R. Matlack/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: James C. Murr (CN=James C. Murr/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

We plan to attend today's 4:30pm pension meeting to wrap up any loose ends, including those mentioned below in Mark's e-mail revision, on the 2 pension bills.

See you then.

----- Forwarded by Melissa Y. Cook/OMB/EOP on 04/17/97
11:35 AM -----

Mark D. Menchik 04/17/97 11:01:09 AM

Record Type: Record

To: Melissa Y. Cook/OMB/EOP

cc: James C. Murr/OMB/EOP, Janet R. Forsgren/OMB/EOP, Larry R. Matlack/OMB/EOP

Subject: Re: Status Report on the Two Pension Bills

If I've gotten these E-mail bells & whistles right, see red text below.

----- Forwarded by Mark D. Menchik/OMB/EOP on 04/17/97
10:58 AM -----

Melissa Y. Cook

04/17/97 10:17:22 AM

Record Type: Record

To: James C. Murr/OMB/EOP, Janet R. Forsgren/OMB/EOP, Larry R. Matlack/OMB/EOP, Mark D. Menchik/OMB/EOP
cc:
bcc:
Subject: Re: Status Report on the Two Pension Bills

----- Forwarded by Melissa Y. Cook/OMB/EOP on 04/17/97
10:20 AM -----

Ellen S. Seidman
04/17/97 10:06:58 AM
Record Type: Record

To: Melissa Y. Cook/OMB/EOP
cc:
Subject: Re: Status Report on the Two Pension Bills

Yes, I believe the PBGC provisions should be added. I don't remember exactly which PBGC provisions were in the balanced budget bill, but I think they should probably all be included.

Likely PBGC provisions:

As approved by FDR, the BBA was to include, additionally:
Missing participants (0 paygo)
Reversion report (not paygo)
Substantial owner benefits (asterisk paygo)
Removing the full funding limit for multiemployer plans (paygo, loser, needs Treasury estimate for the kinds of transmittal being considered, needs both IRC & ERISA amendments. Rough estimate: \$40 M/5 yrs)

Labor Branch and LRD determined that the following was in the BBA all along:

Increasing (doubling, roughly) the guarantee cap for multiemployer plans (loses \$17 m/7 yrs -- I have the pricing) As drafted, it's called something like "Multiemployer benefits guaranteed".

I know they include AT LEAST the doubling of the multiemployer guarantee and the extension of the missing participants program to DC plans. The multiemployer guarantee item needs to be in BOTH the Treasury and the DOL bills; the other is, we believe, only for the DOL bill, although people are checking.

Agree with each.

PBGC has been in touch with both Treasury and Labor, so this should be getting worked out.

Thanks for your help.

ellen

#4, above If there are two separate bills, there's a chicken-and-egg

problem with the cost of this provision. As I understand it, whichever bill is first is rewarded by getting charged for the revenue loss, while the second bill is home free. (The BBA plan put 'em both in the same bill, so no problem.) SINCE TREASURY NEEDS TO PROVIDE A FULL PRICING FOR THIS PROVISION ANYWAY, THEY SHOULD BE ASKED ABOUT THE CHICKEN & EGG MATTER, WHICH COULD ALSO INFLUENCE THE SPEAKER LETTER(S).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melissa Y. Cook (CN=Melissa Y. Cook/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:17-APR-1997 09:59:35.00

SUBJECT: Status Report on the Two Pension Bills

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Larry R. Matlack (CN=Larry R. Matlack/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: James C. Murr (CN=James C. Murr/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I wanted to update you as to the status of the two pension-related draft bills: the ERISA Enforcement and the Pension Tax Simplification draft bills.

Yesterday, LRD spoke to both DOL and Treasury about the approach of having two separate bills vs. one consolidated bill. Treasury agrees with this approach and plans to submit to OMB for clearance the Tax draft bill (plus the PAYGO estimates for the bill) by the end of this week. Per Treasury's request, we provided it with a copy of the DOL ERISA Enforcement Speaker letter to use as a model for the Tax draft bill package.

We have not heard definitively from DOL whether or not the two-bill approach is acceptable from its perspective. Assuming DOL goes along with this approach, its bill is essentially ready to be transmitted to Congress except for (1) modifying the Speaker letter to reference the Treasury Tax bill, and (2) deciding whether or not to add any of the provisions that PBGC wants included.

We will fax you shortly the DOL ERISA Enforcement Speaker letter. Could you please mark it up to include whatever cross-reference you want to the Treasury Tax draft bill? We will then incorporate parallel language into the Treasury Speaker letter.

Also, could you please let us know if the DOL ERISA Enforcement draft bill should be modified to include any of the PBGC-desired provisions? If so, which provisions should be added?

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-APR-1997 10:08:22.00

SUBJECT: Re: Status Report on the Two Pension Bills

TO: Melissa Y. Cook (CN=Melissa Y. Cook/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Yes, I believe the PBGC provisions should be added. I don't remember exactly which PBGC provisions were in the balanced budget bill, but I think they should probably all be included. I know they include AT LEAST the doubling of the multiemployer guarantee and the extension of the missing participants program to DC plans. The multiemployer guarantee item needs to be in BOTH the Treasury and the DOL bills; the other is, we believe, only for the DOL bill, although people are checking. PBGC has been in touch with both Treasury and Labor, so this should be getting worked out.

Thanks for your help.

ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan A. Kaplan (CN=Jonathan A. Kaplan/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-APR-1997 11:01:21.00

SUBJECT: Weekly Report to Potus

TO: Russell W. Horwitz (CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I have a letter to the editor in today's WSJ from PBGC responding to the critical oped from ten days ago on PBGC's surplus -- which potus clipped and asked Gene about.

We should make that letter an attachment to the report. I'll bring it by.

Jon

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-APR-1997 13:17:47.00

SUBJECT: PENSION MEETING WITH RON HAMM

TO: Mary M. Chuckereel (CN=Mary M. Chuckereel/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Charles E. Kieffer (CN=Charles E. Kieffer/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Patricia E. Romani (CN=Patricia E. Romani/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Marcia D. Ocomy (CN=Marcia D. Ocomy/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Lisa M. Kountoupes (CN=Lisa M. Kountoupes/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Daniel M. Tangherlini (CN=Daniel M. Tangherlini/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Alan B. Rhinesmith (CN=Alan B. Rhinesmith/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
Mary,

Please arrange a meeting for Thursday, April 24th between the DC pensions working group and Ron Hamm, to discuss the legislative draft of pension proposal. This afternoon, PBGC will begin drafting the legislative proposal consistent with policy decisions made over the last four weeks. It is unlikely the draft will be ready to hand over on Thursday, but the DC Subcommittee will be made aware of the details of our proposals.

Attendees:

OMB: Toni Hustead, Ellen Seidman, Michael Deich, Alan, Harry, and Marcia,
Mark Menchik

Terry Deneen, Jane Pacelli, and Stuart Sirkin of the PBGC (poc: 326-4080
ex. 3163 for Stuart).

Regina van Valkenburg/Harlan Weller from Treasury (poc: 622-1861 for
Regina)

Richard Hinz, Labor (219-4373)

Ron Hamm and DC Subcommittee staff.

Thanks.

Scott

----- Forwarded by Scott Quehl/OMB/EOP on 04/18/97 12:58
PM -----

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary M. Chuckerel (CN=Mary M. Chuckerel/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:21-APR-1997 11:14:55.00

SUBJECT: DC Pensions meeting with Ron Hamm

TO: Marcia D. Occomy (CN=Marcia D. Occomy/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Alan B. Rhinesmith (CN=Alan B. Rhinesmith/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Harry G. Meyers (CN=Harry G. Meyers/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Patricia E. Romani (CN=Patricia E. Romani/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I have scheduled a DC Pensions meeting with Ron Hamm and the DC Subcommittee staff for Thursday, April 24, 3-4:30 p.m. in rm B349A of the RHOB. I have also notified the PBGC folks (Sirkin, Pacelli, and Deneen), as well as Treasury)Van Valkenburg/Harlan Weller) and Richard Hinz from Labor. If you have questions, please feel free to call me today or Scott on Tuesday or Wednesday since I'll be out.

Thanks....

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:22-APR-1997 15:11:51.00

SUBJECT: Re: test message

TO: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:

yes, it worked. there wasn't supposed to be anything attached, right?
ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 19:22:20.00

SUBJECT: Draft Pension Legislation

TO: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: James A. Brown (CN=James A. Brown/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
Toni & Jane,

Thanks for the call. I faxed to Ron Hamm the draft pension language sent here at 6:49pm, taking care to remove the PBGC CPRD and PBGC fax number from each page beforehand. LRD will circulate for comment within the Administration the draft faxed from PBGC this morning, which includes the funding language. I've asked that the PBGC reference be removed on this draft as well before it is sent out for agency clearance. (Jim Brown (395-3473) will be coordinating circulation in Jill's place on Thursday.)

Scott

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 14:16:55.00

SUBJECT: New pension language

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Lavonne D. Sampson (CN=Lavonne D. Sampson/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

We just got off the phone with Ellen and PBGC. Minor edits are being made and the new language will come to my fax. (ELLEN: I think you are correct that Scott is in the old building - I thought he was in the red building and LaVonne has set me straight . My apologies on this mix up). We will white out the PBGC identifier immediately and LaVonne will hand carry copies to each of you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 13:15:23.00

SUBJECT: Re: DC Pension Legislation

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: pacelli.jane (pacelli.jane @ pbgc.gov @ inet @ lngtwy [UNKNOWN])

READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Ellen,

Regina called around noon to say that she received an electronic copy of the draft.

Scott

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 12:01:41.00

SUBJECT: DC Pension Legislation

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I have just read the revised copy of the DC Pension legislation. I have read an enormous amount of pension legislation in my career - and this is one of the very best. PBGC should be congratulated. My only edit would be in Sec 302 (a) where the words "(except ----)" we dropped from the original draft. I would add them back:

".....all assets of the Retirement Fund on the transfer date (except ----) shall be..."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 09:49:33.00

SUBJECT: Norton answers

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I am enclosing the draft of a response to Norton on her 6 questions. It
has been edited by PBGC and Treasury actuaries. Please let me know if you
have any questions or edits. Thanks.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]MAIL47945321W.116 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

Answers to Delegate Eleanor Holmes Norton's Questions On The District of Columbia Pension Proposal

Important: The calculations associated with this proposal have been furnished by Milliman & Robertson, Inc., currently under contract to provide actuarial services to the District pension plans. Since some analyses are still ongoing and all calculations *estimate* the status of liabilities and assets on the date of assumption, numerical answers should be considered preliminary and subject to change. In the interest of answering Delegate Norton's answers in a timely manner, rounded estimates are used below. It should be understood that more exact numbers would be calculated should the proposal become enacted.

The answers below are based on the following premises:

- The Federal government would assume liabilities for all retirement and survivor benefits accrued before the freeze date, which was taken by the actuary as 10/1/96 for these calculations. The actual freeze date would be the date of introduction of the bill. For employees already retired as of the freeze date: the Federal government would be responsible for paying all future benefits (including cost-of-living increases). Benefits for these retirees would remain unchanged by this proposal. For employees not yet retired as of the freeze date: the Federal government would assume liabilities for all benefits accrued before the freeze date. These benefits would be adjusted to include increases attributable to pay increases and cost-of-living adjustments after the freeze date.
- The District would enact replacement plans to provide benefits for service after the freeze date that would continue current provisions. Benefits for those who retire in the future would remain unchanged by this proposal.
- The draft Memorandum of Understanding calls for future DC pension contributions to be determined on an actuarial method, and not pay-as-you-go. The District's contributions would be determined according to the aggregate cost method, which expresses costs as a percentage of payroll.
- The District would pay disability benefits that commence after the freeze date. The District's responsibility would be reduced by the accrued normal retirement benefit which is the responsibility of the Federal government.
- Assets of \$1.275 billion would be left in the District's pension fund at 10/1/97.

1. Question: Under the President's plan, in present value terms, how much of the estimated current unfunded liability of \$4.795 billion would the federal government assume? How much of this unfunded pension liability would the District be required to retain? Assuming that the federal government would pay down its share of these liabilities through benefits to retirees, how would the District pay its share?

Answer: All of the unfunded liability would be assumed by the Federal government. The District would pay its share from existing assets left in the fund, together with future employer and employee contributions.

2. Question: How much would the District be required to pay to finance post-transition pension costs for the “new” pension plan? That is, would the District be required to fund it on a normal cost basis or on a pay-as-you-go basis? What would be the estimated annual cost to the District to finance its share of pension costs?

Answer: Our most recent projections indicate that the District pension fund contribution would total \$57 million (11% of payroll) in FY 1998 and increase to \$78 million (12% of payroll) by FY 2002, totaling \$336 million over five years. Projections show that the contribution rate would continue to rise after that, reaching an ultimate rate of about 18% of payroll in FY 2027. Without the Federal assumption of liability, the District’s pension costs to the fund are projected to be \$307 million in FY 1998, \$413 million in FY 2002, and a total of \$1,792 million over five years. Consequently, the District would save \$250 million in pension expenditures in FY 1998 and \$1,456 million over five years.

3. Question: The Administration proposes that certain retirement fund assets be left with the District to pay the cost of (a) disability retirement benefits that exceed the cost of a normal retirement benefit, (b) a pro-rated share of survivor benefits for survivors of workers who die after the transition but before retirement, and c) the post-transition component of retirement benefits to new retirees. The Administration estimates that \$1.0 billion in retirement fund assets be left in the District’s fund for this purpose. (District Personnel Officials say the number should be closer to \$1.7 billion). What is the basis for the estimate of the balance to be left in the District’s fund? Is it the intent that the assets to be left with the District retirement fund be equal to the liabilities the District would be required to assume? Or is there another basis for the estimate?

Answer: The amount of assets, \$1.275 billion, was determined in such a way that no unfunded liability would remain with the District, and that the FY 1998 District pension cost would fall below \$60 million.

4. Question: It is assumed that legislation would be proposed to repeal most of P.L. 96-122, including (a) the remaining Federal amortization payments for pre-home rule unfunded liabilities, (b) the formula that currently determines the District’s pay-as-you-go payments, and © the 2005 formula that requires normal cost plus interest on the unfunded liabilities. Is this assumption correct?

Answer: Yes.

5. Question: The table “Effects of President’s Plan on the District Budget” distributed at the April 9, 1997, briefing shows that in FY 1998 the federal government would pay \$276 million for pension to D.C. retirees. What does the \$276 million in federal payments represent in terms of pension payments to specific groups of retirees? That is, if benefits to retirees in FY 1998 will cost \$307 million (the estimate reported at the briefing), and if, under the President’s proposal, the federal government would pay \$276 million, it would appear that the District would pay \$31 million of the cost of benefits to retirees, including some who retired before the transition (\$307

million minus \$276 million = \$31 million). Is this correct?

Answer: No. Under current funding arrangements the District is estimated to contribute \$307 million to the pension fund in FY 1998. Under the proposed scenario, the District would only contribute \$57 million to its fund in FY 1998. It is expected that in FY 1998 a total of \$389 million in benefits would be paid to annuitants; of which only \$2.2 million would be the responsibility of the District.

6. Question: The President's proposal would close the current retirement plans, but compute benefits for future retirees on actual final "high-3" pay. It includes very complicated accounting requirements for dividing between the federal and District governments responsibilities for the cost of benefits to post-transition retirees, for disability benefits, and for survivor benefits for in-service death. An alternative, and much clearer, simpler approach would be to close the current plans to new entrants, but allow current workers to remain in the current plans throughout the remainder of their careers and retirement. (This is the CSRS-FERS model the federal government adopted to make the transition between retirement plans for the federal workforce in 1986). This simpler approach would avoid the issue of "two checks" and would not require bifurcated accounting for service by the same individual. The liabilities could be divided between the federal and District governments in such a way that the District's payments to the federal government for a share of the costs could be set at any desired level. Does the proposed complicated plan achieve some policy objective, or is it just a way to make the numbers "work out" with regard to the bottom line for fiscal relief for the District? Why not follow the federal CSRS-FERS model and close the current plans to new entrants if about the same amount of fiscal relief could be achieved?

Answer: This proposal would add another \$1.0 billion of unfunded liability to the Federal budget. We would prefer to work with the District to solve the two-check problem.

G:\DC\NORTON.WPD

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 13:18:47.00

SUBJECT: Re: pension language

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I cut off the top 1/3 inch with the PBGC fax information on the draft that we will transmit to Ron Hamm later this afternoon, barring significant changes.

Scott

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 09:02:02.00

SUBJECT: pension language

TO: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
I never got a copy. Did it come?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 12:16:41.00

SUBJECT: Re: DC Pension Legislation

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: pacelli.jane (pacelli.jane @ pbgc.gov @ inet @ lngtwy [UNKNOWN])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

To all parties: Have we sent Ron Hamm the draft? Can we do it before the meeting? It will not be the end of the world if we don't but it would be a nice gesture.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 12:06:08.00

SUBJECT: oops - DC Pension Legislation

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])

READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Just reread the section that I proposed a change to and discovered I was wrong. The paragraph refers to an exception that references section 303 (which is allocation of assets). This means that I have no suggested changes! Sorry for the confusion.

----- Forwarded by Toni S. Hustead/OMB/EOP on 04/23/97

11:06 AM -----

Toni S. Hustead

04/23/97 12:00:29 PM

Record Type: Record

To: Scott Quehl/OMB/EOP, G. E. DeSeve/OMB/EOP, Ellen S. Seidman/OPD/EOP

cc: M. Jill Gibbons/OMB/EOP, Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY

Subject: DC Pension Legislation

I have just read the revised copy of the DC Pension legislation. I have read an enormous amount of pension legislation in my career - and this is one of the very best. PBGC should be congratulated. My only edit would be in Sec 302 (a) where the words "(except ----)" we dropped from the original draft. I would add them back:

".....all assets of the Retirement Fund on the transfer date (except ----) shall be..."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-APR-1997 13:14:30.00

SUBJECT: Re: pension language

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

By the way, let's make certain when we send this to the Hill that the PBGC logo is off it. That's why they wanted to e-mail it. ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1997 19:30:08.00

SUBJECT: norton II

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I have incorporated Ellen's changes into this document. I have not
circulated it any further in this building. (PBGC and Treasury actuaries
have edited it early on). I do not know what you want to do with it now.===== ATTACHMENT
I =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D9]MAIL439917211.116 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

Answers to Delegate Eleanor Holmes Norton's Questions On The District of Columbia Pension Proposal

Important: The calculations associated with this proposal have been furnished by Milliman & Robertson, Inc., currently under contract to provide actuarial services to the District pension plans. Since some analyses are still ongoing and all calculations *estimate* the status of liabilities and assets on the date of assumption, numerical answers should be considered preliminary and subject to change. In the interest of answering Delegate Norton's answers in a timely manner, rounded estimates are used below. It should be understood that more exact numbers would be calculated should the proposal become enacted.

The answers below are based on the following assumptions:

- The Federal government would assume liabilities for all retirement and survivor benefits accrued before the freeze date, which was taken by the actuary as 10/1/96 for these calculations. The actual freeze date would be the date of introduction of the bill. For employees already retired as of the freeze date: the Federal government would be responsible for paying all future benefits (including cost-of-living increases). Benefits for these retirees would remain unchanged by this proposal. For employees not yet retired as of the freeze date: the Federal government would assume liabilities for all benefits accrued before the freeze date. These benefits would be adjusted to include increases attributable to pay increases and cost-of-living adjustments after the freeze date.
- The District would enact replacement plans to provide benefits for service after the freeze date that would continue current provisions. Benefits for those who retire in the future would remain unchanged by this proposal.
- Future DC pension contributions would be determined actuarially (not pay-as-you-go) according to the aggregate cost method, which expresses costs as a percentage of payroll.
- The District would pay disability benefits that commence after the freeze date. The District's responsibility would be reduced by the accrued normal retirement benefit which is the responsibility of the Federal government.
- Assets of \$1.275 billion would be left in the District's pension fund at 10/1/97.

1. Question: Under the President's plan, in present value terms, how much of the estimated current unfunded liability of \$4.795 billion would the federal government assume? How much of this unfunded pension liability would the District be required to retain? Assuming that the federal government would pay down its share of these liabilities through benefits to retirees, how would the District pay its share?

Answer: All of the unfunded liability would be assumed by the Federal government. The District would pay its liability for pension benefits accrued in the future (including future disability determinations) from existing assets left in the fund, together with future employer and employee contributions.

2. Question: How much would the District be required to pay to finance post-transition pension costs for the “new” pension plan? That is, would the District be required to fund it on a normal cost basis or on a pay-as-you-go basis? What would be the estimated annual cost to the District to finance its share of pension costs?

Answer: Our most recent projections indicate that the District pension fund contribution would total \$57 million (11% of payroll) in FY 1998 and increase to \$78 million (12% of payroll) by FY 2002, totaling \$336 million over five years if the District adopted ongoing plans that precisely continued the benefit structure of the existing plans. Projections show that the contribution rate would continue to rise after that, reaching an ultimate rate of about 18% of payroll in FY 2027. Without the Federal assumption of liability, the District’s pension costs to the fund are projected to be \$307 million in FY 1998, \$413 million in FY 2002, and a total of \$1,792 million over five years. Consequently, the District would save \$250 million in pension expenditures in FY 1998 and \$1,456 million over five years.

3. Question: The Administration proposes that certain retirement fund assets be left with the District to pay the cost of (a) disability retirement benefits that exceed the cost of a normal retirement benefit, (b) a pro-rated share of survivor benefits for survivors of workers who die after the transition but before retirement, and c) the post-transition component of retirement benefits to new retirees. The Administration estimates that \$1.0 billion in retirement fund assets be left in the District’s fund for this purpose. (District Personnel Officials say the number should be closer to \$1.7 billion). What is the basis for the estimate of the balance to be left in the District’s fund? Is it the intent that the assets to be left with the District retirement fund be equal to the liabilities the District would be required to assume? Or is there another basis for the estimate?

Answer: The amount of assets to be left with the District would be determined in such a way that no unfunded liability would remain with the District, and that the FY 1998 District pension cost would fall below \$60 million. We believe, on the basis of the best current estimates, that leaving \$1.275 billion of assets with the District would accomplish this result.

4. Question: It is assumed that legislation would be proposed to repeal most of P.L. 96-122, including (a) the remaining Federal amortization payments for pre-home rule unfunded liabilities, (b) the formula that currently determines the District’s pay-as-you-go payments, and © the 2005 formula that requires normal cost plus interest on the unfunded liabilities. Is this assumption correct?

Answer: Yes.

5. Question: The table “Effects of President’s Plan on the District Budget” distributed at the April 9, 1997, briefing shows that in FY 1998 the federal government would pay \$276 million for pension to D.C. retirees. What does the \$276 million in federal payments represent in terms of pension payments to specific groups of retirees? That is, if benefits to retirees in FY 1998 will cost \$307 million (the estimate reported at the briefing), and if, under the President’s proposal,

the federal government would pay \$276 million, it would appear that the District would pay \$31 million of the cost of benefits to retirees, including some who retired before the transition (\$307 million minus \$276 million = \$31 million). Is this correct?

Answer: No. Under current funding arrangements the District is estimated to contribute \$307 million to the pension fund in FY 1998. Under the proposed scenario, the District would only contribute \$57 million to its fund in FY 1998, virtually all of which would be to fund *future* benefits. It is expected that in FY 1998 a total of \$389 million in benefits would be paid to annuitants; of which only \$2.2 million would be the responsibility of the District.

6. Question: The President's proposal would close the current retirement plans, but compute benefits for future retirees on actual final "high-3" pay. It includes very complicated accounting requirements for dividing between the federal and District governments responsibilities for the cost of benefits to post-transition retirees, for disability benefits, and for survivor benefits for in-service death. An alternative, and much clearer, simpler approach would be to close the current plans to new entrants, but allow current workers to remain in the current plans throughout the remainder of their careers and retirement. (This is the CSRS-FERS model the federal government adopted to make the transition between retirement plans for the federal workforce in 1986). This simpler approach would avoid the issue of "two checks" and would not require bifurcated accounting for service by the same individual. The liabilities could be divided between the federal and District governments in such a way that the District's payments to the federal government for a share of the costs could be set at any desired level. Does the proposed complicated plan achieve some policy objective, or is it just a way to make the numbers "work out" with regard to the bottom line for fiscal relief for the District? Why not follow the federal CSRS-FERS model and close the current plans to new entrants if about the same amount of fiscal relief could be achieved?

Answer: This proposal would add another \$1.0 billion of unfunded liability to the Federal budget, which would have to be scored within the budget window for both BEA and deficit reduction purposes. We would prefer to work with the District to solve the two-check problem.

G:\DC\NORTON.WPD

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-APR-1997 13:13:45.00

SUBJECT: Re: DC Pension Legislation

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: pacelli.jane (pacelli.jane @ pbgc.gov @ inet @ lngtwy [UNKNOWN])

READ:UNKNOWN

CC: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

CC: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Actually, first I want to make certain the Treasury department has it.
Have Regina and Harlan been in this last loop?

I'm reading it now. I have a few questions, but I agree with Toni, PBGC did a great job. I'll be on the phone with the PBGC people within the hour, and if there are any issues, we'll spread them more broadly.

We should still be able to get it to Ron today, but only if Treasury has seen it.

Ellen

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Ellen S. Seidman to pacelli.jane at 07:27:37.00. Subject: draft. [partial] (1 page)	04/23/1997	b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([PBGC])
OA/Box Number: 250000

FOLDER TITLE:

[03/29/1997 - 05/05/1997]

2014-0226-F
ab1480

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 23-APR-1997 07:27:37.00

SUBJECT: draft

TO: pacelli.jane (pacelli.jane @ pbgc.com @ inet [UNKNOWN])

READ: UNKNOWN

TEXT:

I didn't receive anything but the test message either at work or at home.

Was there something else?

(b)(6)

(b)(6)

[002]

(b)(6) I can get into the work server from home, but it's much slower.
thanks. ellen

(b)(6)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-APR-1997 11:48:30.00

SUBJECT: Re: test message

TO: Pacelli.Jane (Pacelli.Jane @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])

READ:UNKNOWN

TEXT:

Jane, you'll be amused to know that your response to my 4/22 reply to your test message JUST got to me, two days later. So much for the glories of e-mail. ellen

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-APR-1997 17:59:39.00

SUBJECT: Pension table

TO: Kramerich.Leslie (Kramerich.Leslie @ pbgc.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:

Here it is. Hope this works. ellen===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D93]MAIL49725641D.116 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

PENSION PROPOSALS FROM OTHER THAN ADMINISTRATION

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
Mandatory payroll deduction IRA, with contractor	Daschle, Gephardt	Clarify that voluntary payroll ded for IRA OK (Graham)				
Nonrefundable tax credit for initial IRA contributions by low-income workers	Daschle, Gephardt					
Require periodic statements of accrued benefits	Daschle, Gephardt	Annual benefit statements to dc plan part.; 3-yr to db (Graham)				
Small employer \$500 tax credit for start-up costs of establishing plan or complying with payroll deduction	Daschle, Gephardt					
Exempt mirror plans of tax-exempt organizations from §457 limits	Daschle, Gephardt					
401(k) contributions for partners not counted toward elective contribution limits	Daschle, Gephardt	Same, but include self-employed individuals				

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
		(Graham)				
Modification of 10% tax on certain nondeductible contributions	Daschle, Gephardt					
Modification of nondiscrimination rules for state and local plans	Daschle, Gephardt					
Encourage "new technologies" in plan operations, communications, etc.	Daschle, Gephardt, Graham, ERIC					
Require faster vesting for 401(k) contributions	Daschle , Gephardt	3-year vest for matching contributions (Graham)				
Eliminate "same desk rule" for 401(k) plans to permit rollovers	Daschle, Gephardt, ERIC	Employees of joint ventures considered emp of parent for retirement benefits (Graham)				
Facilitate voluntary transfers between dc plans with different optional forms of distribution	Daschle, Gephardt, ERIC					

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
Diversification requirement for employee 401(k) contributions (Boxer amendment)	Daschle, Gephardt, Graham					
Improved annual reporting by small 401(k) plans	Daschle, Gephardt	Additional disclosure required if no separate accounts under contractual investment arrangement (Gephardt)				
Study on plans' investments in collectibles	Daschle, Gephardt					
Prohibition on 401(k) loans through credit cards	Daschle, Gephardt, Graham					
Encourage development and expansion of "additional remedies" for plan defects	Daschle, Gephardt	No disqual or sanction if inadvertent violation corr b/f audit; r-&-f employees never taxed b/c of disqual; sliding scale monetary fines where				

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
		reasonable effort to comply (Graham)				
Break spousal link for IRA	Daschle, Gregg					
Require that a joint and 2/3 either survivor option be added by plans with required J&S forms	Daschle, Gephardt					
Require plans to treat "silent" divorce decrees as "deemed" 50/50 QDROs	Daschle	Limit to those married 5+ yrs; part. to notify plan w/i 60 days of divorce (Gephardt)				
Create toll-free women's pension hotline through DOL	Daschle					
Further restrict, then eliminate, SS integration by applying TRA '86 limits to pre-88 plan yrs and eliminating integration for post-2004 plan years	Gephardt					
Require employers not treated as operating SLOB to benefit all employees for plan to be qualified	Gephardt					

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
Eliminate requirement that former RR employee begin collecting RR benefits for former spouse to begin receiving 50% divorce benefit	Gephardt					
Permit court orders to provide that RR Tier II benefits continue after death of former spouse	Gephardt					
Terminate two-tier annuity computation and SS offset under military survivor benefit plan	Gephardt					
Add spousal consent requirements "comparable to" those in db plans, to 401(k) plans	Gephardt					
Exclude from income certain disability benefits received by police and firefighters	Gephardt					
Eliminate 150% full funding limit for single employer plans	Gephardt	Phase out full funding limit (Graham)				
Raise cashout amount, and index for inflation	Graham					

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
Use prior year valuations for db contributions requirements for traditionally fully-funded plans	Graham					
Pre-regs good faith interp deemed compliance	Graham					
For dc plans, if no beneficiary named, assets go to surviving spouse	Graham					
Catchup contribs allowed in 401(k) plans for leave taken under FMLA	Graham	Catchup contribs (which may be matched by employer) allowed for up-to-12 months maternity or paternity leave (Gregg)				
Simple defined benefit plan	Graham, ASPA					
Permit plan loans for owners of p'ships and S corps on same basis as employees	Graham					
Allow unlimited rollovers from 401(k)s, 403(b)s, and 457s to	Graham					

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
401(k)s, 403(b)s, 457s, and IRAs						
Employers could disregard rollovers for cash-out rules	Graham					
Allow IRS to extend 60-day IRA rollover period	Graham					
Up to 18 years of catchup contributions (but limited each year to amt equal to that year's max 401(k) contrib) for years not participating in plan while raising dependent child	Gregg					
Restore \$75,000 floor for actuarial reductions at 55 or above; eliminate req for actuarial red for benefits that commence between 62 and SS retirement age	ERIC					
Expand ERISA definition of excess benefit plan to incl plan meant to pay benefits in excess of limits imposed by other than 415	ERIC					
Allow notification of plan benefit options w/i 1 year	ERIC					

Provision	Origin	Related proposals	O	S	S/M	Modifications Required
before distribution						
Don't require notification of options for in-service distributions not subject to J&S requirements	ERIC					
Allow after-tax contributions to be included in rollovers	ERIC					

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:28-APR-1997 14:45:28.00

SUBJECT: DeSeve testimony on DC pensions

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

Scott - I'm also faxing you comments from PBGC and Ellen.

----- Forwarded by M. Jill Gibbons/OMB/EOP on 04/28/97
02:39 PM -----

Harry E. Moran

04/28/97 02:15:10 PM

Record Type: Record

To: M. Jill Gibbons/OMB/EOP
cc: Marcia D. Ocomy/OMB/EOP, Harry G. Meyers/OMB/EOP
Subject: LRM JAB119, DeSeve testimony on DC pensions

On page 2, second paragraph, the phrase "and not Federal budget resources" is wrong, because the pension assets will be budgetary resources. It can be corrected by adding "other" before "Federal". However, there seems to be a disconnect between this and the previous sentence. Later on we say, that, for the Federal government, the receipts from the assets will offset the outlays for benefit payments until well into the next decade. Presumably the same would be true for DC if they retained the pension funds. How then is most of \$800 million saved over the same period by the Feds taking over the pension plan?

Mark D. Menchik 04/28/97 11:28:49 AM

Record Type: Record

To: M. Jill Gibbons/OMB/EOP
cc: Larry R. Matlack/OMB/EOP
Subject: Re: Advance copy of pension testimony for comment.

JAB 119

With the minor edits below, I concur with the testimony.

p, 2, next-to-last para, second sentence. Assuming the present value is as calculated in 1979, the sentence should end "discounted present value of \$646 m, in 1979 dollars."

P. 3, first para, second sentence. Assuming that the \$5 B in that sentence (current unfunded liability) is being compared to the \$2 B in the previous para (unfunded liability in 1979) this sentence should say "has more than doubled since 1979"

p. 4, next to last para, fourth line. " will appoint a private, third-party Trustee". This is for emphasis.

p, 5, A-1. Congrats for including the page number.

p, 6, A-6, line 4. Should be "even though the pensions are being administered by a private, Trustee." Again, for emphasis in discussing the budget treatment of the plan.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:28-APR-1997 17:15:57.00

SUBJECT: Re: MJG75: DC Bill

TO: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I believe "participants" and "beneficiaries" are defined in the underlying DC statute. Someone should check with Terry Deneen at PBGC. This bill was carefully written with respect to those kinds of issues, and I'm certain he has an answer.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:30-APR-1997 16:25:42.00

SUBJECT: DC Pension Legislation

TO: Scott Quehl (CN=Scott Quehl/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Today was the interagency meeting associated with scrubbing the DC pension language. Jim Jukes in LRD hosted it. Most of the questions pertained to nonpension parts. The only pension questions came from OMB's BRD. Rusty Moran, who is totally supported by Barry Anderson, pointed out some areas that had to change to fit properly into the Federal Budget concepts and process. Since this is a new animal (trust fund owned by the fed govt but invested in private portfolio) - I got PBGC attorneys and actuaries and Rusty together for an unexpected 45 minute meeting this afternoon to ensure that both parties could understand the issues and disagree if need be. PBGC understands and will make the BRD changes to the language, which they promise to turnaround by tomorrow. I think it is important for you two to understand them from the expert, Rusty. I checked with Mary C and she says that the 2:00 meeting that we have scheduled tomorrow for the Norton questions will only be about 45 minutes long as Ed has another meeting. She has moved our meeting up to 1:30 so that Rusty can attend the first part and explain the changes. I am hoping that you can be there early -- we will explain it to Ed if you can not make it and make a later appt with you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 1-MAY-1997 18:37:08.00

SUBJECT: Revised Draft - Pension Language

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: M. Jill Gibbons (CN=M. Jill Gibbons/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Harry E. Moran (CN=Harry E. Moran/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

Here is the email I got from PBGC with the revised DC Pension language. I believe it incorporates all of the changes that Rusty, Ellen, and Ed DeSeve want incorporated. Jill, we do not recommend taking out the Board of Actuaries. Should we do this then much of the language would have to change and it is unclear who would do what in regard to some of the accountabilities. Ellen, correct me if I am wrong.

----- Forwarded by Toni S. Hustead/OMB/EOP on 05/01/97
05:35 PM -----

Pacelli.Jane @ pbgc.gov
05/01/97 04:44:00 PM

Record Type: Record

To: Scott Quehl, Toni S. Hustead
cc:
Subject: Revised Draft

of D.C. Retirement is attached. Am also faxing to you now. Call with questions/comments. A compare with last draft is attached but not included in fax.

[[UNIFIEDG.OGC : 4385 in UNIFIEDG.OGC]] [[UNIFIEDF.CMP : 4386
in UNIFIEDF.CMP]]

Any views expressed by the author of this message are not those of
the Pension Benefit Guaranty Corporation.
#####

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]MAIL48407602R.116 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]MAIL40507602S.116 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 2 =====

===== ATTACHMENT 3 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IID3UBM01S0004RF@PMDF.EOP.GOV>; Thu, 01 May 1997 17:42:15 -0500 (EST)
Received: from gatekeeper.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IID3U9I6HS000221@PMDF.EOP.GOV>; Thu, 01 May 1997 17:42:13 -0500 (EST)
Received: from MAIL.PBGC.GOV by gatekeeper.eop.gov;
(5.65v3.2/1.1.8.2/17Oct95-0424PM) id AA28954; Thu, 01 May 1997 17:42:08 -0400

Received: from mail.pbgc.gov (206.105.222.10)
by MAIL.PBGC.GOV (Integralis SMTPRS 1.51)
with SMTP id <B0000035947@MAIL.PBGC.GOV>; Thu, 01 May 1997 17:43:57 -0400

Received: from Microsoft Mail (PU Serial #1484)
by mail.pbgc.gov (PostalUnion/SMTP(tm) v2.1.9a for Windows NT(tm))
id AA-1997May01.174312.1484.341438; Thu, 01 May 1997 17:44:18 -0400

Organization: Pension Benefit Guaranty Corporation

X-Mailer: Microsoft Mail via PostalUnion/SMTP for Windows NT

===== END ATTACHMENT 3 =====

TITLE I — DISTRICT OF COLUMBIA RETIREMENT FUNDS

SEC. _101. SHORT TITLE.

This title may be cited as the "District of Columbia Retirement Protection Act of 1997".

SEC. _102. TABLE OF CONTENTS.

Sec. _101. Short Title.
Sec. _102. Table of Contents

SUBTITLE A -- GENERAL PROVISIONS

Sec. _103. Findings and Declaration of Policy.
Sec. _104. Definitions.

SUBTITLE B -- FREEZING OF EXISTING PROGRAM

Sec. _201. Freeze of Service Under the Retirement Program.
Sec. _202. Disability Benefits After the Service Freeze.
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SUBTITLE A -- GENERAL PROVISIONS

SEC. __103. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that——

(1) the retirement programs for the police officers and firefighters, teachers and judges of the District of Columbia had significant unfunded liabilities when those programs were transferred to the District of Columbia, and those liabilities have since increased;

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

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

(b) It is the policy of this title——

(1) to provide for a responsible system for payment of benefits under the retirement programs;

(2) to allow for the establishment by the District of Columbia of replacement plans for the current retirement programs for teachers and police and firefighters; and

(3) to provide for the continuation of the retirement program for judges by the federal government.

SEC. _104. DEFINITIONS.

For purposes of this title, the term:

(1) “Actuarial Board” means the Department of the Treasury Retirement Board of Actuaries created in section 501.

(2) “Code” means the Internal Revenue Code of 1986.

(3) “contract” means the contract under section 305 between the Secretary and the Trustee.

(4) “District Government” means, as appropriate, the “District government” as defined by section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Pub. L. 104-8) or the District of

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

(5) “employee” means a teacher, a judge, or a member of the Metropolitan Police Force or the Fire Department of the District of Columbia as defined in the retirement program.

(6) “employee contributions” means amounts deducted and withheld from the salaries of teachers and members of the Metropolitan Police Force and Fire Department of the District of Columbia and paid to the Retirement Fund (and, in the case of teachers, amounts of additional deposits paid to the Retirement Fund), pursuant to the retirement program.

(7) “ERISA” means the Employee Retirement Income Security Act of 1974.

(8) “Federal Supplemental Fund” means the Federal Supplemental District of Columbia Pension Fund created under section 601.

(9) “freeze date” means [date of introduction].

(10) “judge” means a judge as defined in section 11-1561(1) of the District of Columbia Code.

(11) “judges’ contributions” means amounts deducted and withheld from the salaries or pensions of judges pursuant to the retirement program and paid to the Retirement Fund or to the Federal Supplemental Fund pursuant to the retirement program or this title.

(12) “person” means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

(13) “Reform Act” means the District of Columbia Retirement Reform Act (Pub. L. 96-122).

(14) “replacement plan” means the plan described in section 404.

(15) “replacement plan adoption date” means the date upon which the legislation enacted by the District Government establishing the replacement plan becomes effective.

(16) "Retirement Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the District of Columbia Teachers' Retirement Fund, and the District of Columbia Judges' Retirement Fund as defined in section 102(10) of the Reform Act.

(17) "retirement program" means any of the retirement programs for teachers, members of the Metropolitan Police Force and Fire Department, and judges, as described in section 102(7) of the Reform Act as in effect on the day before the freeze date.

(18) "Retirement Trust" means the District of Columbia Retirement Trust Fund created under section 301.

(19) "Secretary" means the Secretary of the Treasury or the Secretary's designee.

(20) "Trustee" means the person or persons designated by the Secretary under section 305.

SUBTITLE B -- FREEZING OF EXISTING PROGRAM

SEC. _201. FREEZE OF SERVICE UNDER THE RETIREMENT PROGRAM.

Except as provided in section 701 relating to judges, service after the freeze date shall not be credited under the retirement program for purposes of determining the amount of benefits an employee has accrued. Such service shall continue to be credited for all other purposes.

SEC. _202. DISABILITY BENEFITS AFTER THE SERVICE FREEZE.

Except as provided in section 701 relating to judges, in the case of a disability retirement in which disability retirement benefits commence after the freeze date, the only benefit payable from the Retirement Trust or the Federal Supplemental Fund with respect to disability is the deferred retirement benefit or normal retirement benefit the employee would receive if the employee left service on the day before disability retirement benefits commence.

SEC. _203. DEATH BENEFITS AFTER THE SERVICE FREEZE.

Except as provided in section 701 relating to judges, in the case of a benefit under the retirement program that is payable on the death of an employee or former employee, and that is not determined by the length of service of the employee or former employee, the benefit payable from the Retirement Trust or the Federal Supplemental Fund shall be limited to the percentage of the entire benefit represented by a fraction, the numerator of which is the number of months of the employee's service prior to the freeze date, and the denominator of which is the total number of months of the employee's service.

SUBTITLE C -- RETIREMENT TRUST

SEC. _301. CREATION OF RETIREMENT TRUST.

There is established on the books of the Treasury the District of Columbia Retirement Trust Fund, which shall be administered by the Trustee. The assets of the Retirement Trust shall be used for the purpose of paying benefits under this title, the reasonable and necessary expenses of administering the Retirement Trust as determined pursuant to the contract in section 305(b), and for such other purposes as are specified in this title.

SEC. _302. TRANSFER OF ASSETS AND OBLIGATIONS.

(a) Except as provided in subsection (b) and in section 303, all obligations of the retirement program as of the freeze date and all assets of the Retirement Fund as of the replacement plan adoption date shall be transferred to the Retirement Trust as of the replacement plan adoption date.

(b) Subsection (a) shall not apply to any employee contributions made after the freeze date, nor to any interest thereon (computed at a rate and in a manner determined by the Secretary).

(c) The assets of the Retirement Trust are hereby made available for the payments of benefits and necessary administrative expenses.

SEC. _303. ALLOCATION OF ASSETS

(a) Except for the assets designated under subsection (b) and the contributions under section 302(b), all assets of the Retirement Fund shall be transferred to the Retirement Trust in accordance with the direction of the

Secretary. The District Government shall promptly take all steps, and execute all documents, that the Secretary deems necessary to effect the transfer.

(b) The Secretary shall designate assets with a value of \$ [INSERT NUMBER] that shall not be transferred under subsection (a). The Secretary's designation and valuation of the assets shall be final and binding.

SEC. _304. TREATMENT OF RETIREMENT TRUST.

(a) For purposes of the Code and ERISA --

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

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

(3) the system of benefits under the Retirement Trust shall be treated as a governmental plan under section 414(d) of the Code and sections 3(33) and 4021(b)(2) of ERISA.

(b) The Code shall apply to the Retirement Trust only to the extent the Secretary determines that application of the Code is consistent with the administration of this title.

(c) The Retirement Trust shall not be considered an agency or department of the United States.

SEC. _305. SELECTION OF TRUSTEE.

(a) As soon as practicable after enactment of this title, the Secretary shall select a Trustee to carry out the responsibilities and duties specified in this title and defined by the contract.

(b) The Secretary shall enter into a contract with the Trustee to carry out the purposes of this title. The contract shall provide for the management, investment, control and auditing of Retirement Trust assets, the payment of benefits under this

title from the Retirement Trust and such other matters as the Secretary deems appropriate.

SEC. _306. POWERS AND DUTIES OF THE SECRETARY.

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

(b) The Secretary shall enforce the provisions of this title and the contract, and shall monitor the administration of the Retirement Trust.

(c) The Secretary is authorized to requisition from the Retirement Fund such sums as are necessary to administer the Retirement Trust and Actuarial Board until assets are transferred to the Retirement Trust. After assets are transferred to the Retirement Trust, such administrative payments shall be made from the Retirement Trust pursuant to subsection (d).

(d) All payments for necessary administrative expenses of the Retirement Trust shall be set forth in an annual budget, which is subject to the certification and approval of the Secretary.

SEC. _307. PAYMENTS AFTER DEPLETION OF RETIREMENT TRUST ASSETS.

(a) Not later than 18 months before the time that assets remaining in the Retirement Trust are projected to be insufficient to pay benefits and necessary administrative expenses when due, the Secretary shall so advise the President and the Congress.

(b) Before all available assets of the Retirement Trust have been depleted, the Secretary shall determine whether payment of benefits and necessary administrative expenses under this title shall be made by --

(1) Continuation of the Retirement Trust using payments from the Federal Supplemental Fund; or

(2) Discontinuance of the Retirement Trust, and

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

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

(c) If the Secretary determines that the Retirement Trust shall be discontinued after it has been depleted of assets, the Secretary shall appoint a successor to the Trustee to administer the payment of benefits under this title, and said appointee shall have the powers given to the Trustee in this subtitle and subtitle D.

(d) The Secretary shall make appropriate arrangements to implement the determinations made in this subsection.

(e) The arrangements for payments of benefits and necessary administrative expenses after the Retirement Trust has been depleted of assets shall be subject to the same treatment as similar arrangements under section 304.

SEC. _308. FEDERAL INFORMATION SHARING.

(a) Notwithstanding section 6103 of title 26 and section 552a of title 5, United States Code, the Secretary may

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

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

(b) The Secretary may issue regulations governing the confidentiality of the information pursuant to subsection (a).

SEC. _309. RESPONSIBILITIES AND POWERS OF THE TRUSTEE.

(a) The Trustee shall perform its obligations under this title and the contract.

(b)(1) In accordance with procedures approved by the Secretary, the Trustee

shall provide to any participant or beneficiary whose claim for benefits under this title has been denied in whole or in part ———

(A) written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average plan participant; and

(B) reasonable opportunity for review of the benefit determination.

(2) Any factual determination made by the Trustee shall be presumed correct unless rebutted by clear and convincing evidence. The Trustee's interpretation and construction of the benefit provisions of the retirement program and this title shall be entitled to great deference.

(c) The Trustee may monitor and review the benefit eligibility of persons receiving benefits under this title. Notwithstanding any other provision of law, the Trustee is authorized to correct any errors in benefit determinations, and is further authorized to recoup or recover any benefit overpayments.

(d) The Trustee shall engage an enrolled actuary (as defined in section 7701(a)(35) of the Code) who is a member of the American Academy of Actuaries who shall perform an annual actuarial valuation (in a manner and form determined by the Secretary) of the Retirement Trust and the Federal Supplemental Fund for obligations assumed by the federal government under this title for benefits and necessary administrative expenses under the retirement program. The valuation shall use methods and assumptions approved by the Actuarial Board under section 604. An annual report by the enrolled actuary shall be provided to the Secretary, the Trustee and the Actuarial Board. Each report shall project when assets in the Retirement Trust will be insufficient to pay benefits and necessary administrative expenses when due.

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

SUBTITLE D -- DISTRICT GOVERNMENT

SEC. _401. INTERIM ADMINISTRATION.

(a) After the enactment of this title the District Government shall continue to discharge its duties and responsibilities under the retirement program and Retirement Fund, as modified by subtitle B, until such time as the District Government is notified by the Secretary that the Secretary has directed the Trustee to commence such duties and responsibilities.

(b) The District Government's reasonable and necessary expenses incurred pursuant to its responsibilities under subsection (a) shall be reimbursed from the Retirement Trust.

(c) The District Government shall reimburse the Retirement Fund for any benefits paid inconsistent with subtitle B from the Retirement Fund between the freeze date and the replacement plan adoption date.

SEC. _402. RECORDS TRANSFER.

Within 30 days after the Secretary or the Trustee requests, the District Government shall furnish copies of all records, documents, information, or data the Secretary or the Trustee deems necessary to carry out their responsibilities under this title and the contract. Upon request, the Secretary or the Trustee shall be granted direct access to such information systems, records, documents, information or data as will enable them to carry out their responsibilities under this title or the contract. The District Government shall reimburse the Retirement Trust for all costs, including benefit costs, that are attributable to errors or omissions in the transferred records.

SEC. _403. FINAL RECONCILIATION.

As soon as practicable after the replacement plan adoption date, the District Government shall furnish the Trustee a final reconciliation of accounts in connection with the transfer of assets and obligations to the Retirement Trust. The allocation of assets under section 303 shall be adjusted in accordance with this reconciliation.

SEC. _404. REPLACEMENT PLAN.

(a) No later than one year from the date of enactment of this title, or such later time as the Secretary may prescribe, the District Government shall adopt a replacement plan to be effective as of the freeze date.

(b) If the District Government fails to adopt a replacement plan within the period prescribed in subsection (a), the transfer of assets and obligations under section 302 shall not occur and the retirement program and Retirement Fund shall remain the responsibility of the District Government.

SUBTITLE E -- THE ACTUARIAL BOARD

SEC. _501. ESTABLISHMENT OF THE ACTUARIAL BOARD.

(a) There is established in the Department of the Treasury a Department of the Treasury Retirement Board of Actuaries. The Actuarial Board shall consist of three members, who shall be appointed by the Secretary from among enrolled actuaries who are members of the American Academy of Actuaries.

(b)(1) Except as provided in paragraph (2), the members of the Actuarial Board shall serve for a term of six (6) years, except that a member of the Actuarial Board appointed to fill a vacancy occurring before the end of the term for which a predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the term until a successor has taken office. A member of the Actuarial Board may be removed by the Secretary for misconduct or failure to perform the functions of the Actuarial Board, and for no other reason.

(2) Of the members of the Actuarial Board who are first appointed under this subsection, one each shall be appointed for terms ending two, four, and six years, respectively, after the date of appointment, as designated by the Secretary at the time of appointment.

(c) A member of the Actuarial Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of the duties of the Actuarial Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

SEC. _502. GENERAL DUTIES OF THE ACTUARIAL BOARD.

The Actuarial Board shall review the actuarial valuation reports produced by the enrolled actuary engaged by the Trustee, and report to the Secretary annually on the actuarial status of the Retirement Trust and the Federal Supplemental Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

SUBTITLE F -- FEDERAL SUPPLEMENTAL FUND

SEC. _601. ESTABLISHMENT OF THE FEDERAL SUPPLEMENTAL FUND.

There is established on the books of the Treasury the Federal Supplemental District of Columbia Pension Fund, which shall be administered by the Secretary. The Federal Supplemental Fund shall be a trust within the federal budget, to be used for the accumulation of funds in order to finance obligations of the federal government for benefits and necessary administrative expenses under the provisions of this title.

SEC. _602. ASSETS OF THE FEDERAL SUPPLEMENTAL FUND.

There shall be deposited into the Federal Supplemental Fund the following, which shall constitute the assets of the Federal Supplemental Fund:

- (a) Amounts paid into the Federal Supplemental Fund under the provisions of this title.
- (b) Any amount appropriated to the Federal Supplemental Fund.
- (c) Any return on investment of the assets of the Federal Supplemental Fund.

SEC. _603. PAYMENTS FROM THE FEDERAL SUPPLEMENTAL FUND.

The assets of the Federal Supplemental Fund are hereby made available for the payments of benefits and, to the extent and in such amounts as are provided in advance in appropriations acts, necessary administrative expenses upon the depletion of the assets of the Retirement Trust.

SEC. _604. DETERMINATION OF COSTS UNDER THE FEDERAL SUPPLEMENTAL FUND.

(a) Not later than six months after the Actuarial Board is first appointed, the Actuarial Board shall determine the amount that is the present value as of the freeze date of future benefits payable from the Federal Supplemental Fund, which shall be the original unfunded liability of the Federal Supplemental Fund. The Actuarial Board shall determine an amortization schedule for the liquidation of the original unfunded liability over a 30-year period.

(b)(1) The Actuarial Board shall determine on an annual basis the normal cost for judges under the retirement program.

(2) The Actuarial Board shall determine on an annual basis an amortization methodology and schedule for the amortization of the change in unfunded liability of the Federal Supplemental Fund due to:

- (A) a change in benefits;
- (B) a net experience gain or loss;
- (C) a change in actuarial assumptions; or
- (D) a change in actuarial methods.

(3) The Actuarial Board shall determine on an annual basis the amount of the necessary administrative expenses of the Federal Supplemental Fund. This determination is subject to the review and approval of the Secretary.

(c) All determinations under this section shall be made using methods and assumptions approved by the Actuarial Board (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(d) The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the Federal Supplemental Fund.

SEC. 605. PAYMENTS INTO THE FEDERAL SUPPLEMENTAL FUND.

(a) The Actuarial Board annually shall determine and certify to the Secretary

the sum of the amount in section 604(a), the normal cost under section 604(b)(1) (net of judges' contributions), and the amount of amortization payments under section 604(b)(2). The sum of such amounts may not be less than zero. To this sum shall be added the amount of necessary administrative expenses in section 604(b)(3).

(b) At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury the amount certified under subsection (a).

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

SEC. _606. INVESTMENT OF ASSETS OF FEDERAL SUPPLEMENTAL FUND.

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

SUBTITLE G -- JUDGES' RETIREMENT PROGRAM

SEC. _701. CONTINUATION OF RETIREMENT PROGRAM FOR JUDGES.

Notwithstanding subtitle B, active and new judges shall continue to accrue service and benefits as provided under the retirement program in effect on the freeze date.

SEC. _702. SOURCE OF JUDGES' BENEFITS.

Benefits for judges provided under the Retirement Program shall be paid from the Retirement Trust until such time as assets of the Federal Supplemental Fund become available under section 603, after which benefits for judges will be paid from the Federal Supplemental Fund.

SEC. _703. JUDGES' CONTRIBUTIONS.

Any judges' contributions made after the replacement plan adoption date shall be paid into the Federal Supplemental Fund.

SUBTITLE H -- ENFORCEMENT

SEC. _801. JUDICIAL REVIEW.

(a) A civil action may be brought--

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

(2) by the Trustee--

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

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

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

(b) The Retirement Trust may sue and be sued as an entity.

(c) This subtitle shall be the exclusive means for bringing actions against the Retirement Trust, the Trustee or the Secretary under this title.

SEC. _802. JURISDICTION AND VENUE.

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

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

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

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

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

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

SEC. 803. LIMITATIONS OF ACTIONS.

(a) Any civil action by a participant or beneficiary for benefits under this title shall be commenced within 180 days of a final benefit determination.

(b) Any civil action for breach of the contract or violation of this title shall be commenced within the later of——

(1) six years after the last action that constituted a breach of the contract or violation of this title or, in the case of an omission, six years after the last date on which the breach or violation could have been cured; or

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

(c) Notwithstanding subsection (b), any action against the Secretary arising

(in whole or part) under this title or the contract shall be commenced within one year of the events giving rise to the cause of action.

SEC. _804. MISAPPROPRIATION.

The provisions of section 664 of title 18 United States Code shall apply to the Retirement Trust and the Federal Supplemental Fund.

SUBTITLE I -- MISCELLANEOUS

SEC. _901. SEVERABILITY OF PROVISIONS.

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

SEC. _902. FULL FAITH AND CREDIT.

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

SEC. _903. OTHER LAWS

(a) Nothing in this title shall be deemed to alter or amend in any way the provisions of existing law (including D.C. Code sec. 4-601 et seq.) relating to the program of annuities, other retirement benefits, or medical benefits for members and officers, retired members and officers, and survivors thereof, of the United States Park Police force, the United States Secret Service, or the United States Secret Service Uniformed Division.

(b) This title supersedes any provision of the Reform Act inconsistent with this title and the regulations thereunder.

(c) Notwithstanding section 144 of the Reform Act, no Federal payment is authorized to be appropriated to the Retirement Fund after fiscal year 1997.

TITLE I — DISTRICT OF COLUMBIA RETIREMENT FUNDS

SEC. _101. SHORT TITLE.

This title may be cited as the "District of Columbia Retirement Protection Act of 1997".

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SUBTITLE A -- GENERAL PROVISIONS

SEC. __103. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that——

(1) the retirement programs for the police officers and firefighters, teachers and judges of the District of Columbia had significant unfunded liabilities when those programs were transferred to the District of Columbia, and those liabilities have since increased;

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

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

(b) It is the policy of this title——

(1) to provide for a responsible system for payment of benefits under the retirement programs;

(2) to allow for the establishment by the District of Columbia of replacement plans for the current retirement programs for teachers and police and firefighters; and

(3) to provide for the continuation of the retirement program for judges by the federal government.

SEC. 104. DEFINITIONS.

For purposes of this title, the term:

(1) “Actuarial Board” means the Department of the Treasury Retirement Board of Actuaries created in section 501.

(2) “Code” means the Internal Revenue Code of 1986.

(3) “contract” means the contract under section 305 between the Secretary and the Trustee.

(4) “District Government” means, as appropriate, the “District government” as defined by section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Pub. L. 104-8) or the District of

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

(5) “employee” means a teacher, a judge, or a member of the Metropolitan Police Force or the Fire Department of the District of Columbia as defined in the retirement program.

(6) “employee contributions” means amounts deducted and withheld from the salaries of teachers and members of the Metropolitan Police Force and Fire Department of the District of Columbia and paid to the Retirement Fund (and, in the case of teachers, amounts of additional deposits paid to the Retirement Fund), pursuant to the retirement program.

(7) “ERISA” means the Employee Retirement Income Security Act of 1974.

(8) “Federal Supplemental Fund” means the Federal Supplemental District of Columbia Pension Fund created under section 601.

(9) “freeze date” means [date of introduction].

(10) “judge” means a judge as defined in section 11-1561(1) of the District of Columbia Code.

(11) “judges’ contributions” means amounts deducted and withheld from the salaries or pensions of judges pursuant to the retirement program and paid to the Retirement Fund or to the Federal Supplemental Fund pursuant to the retirement program or this title.

(12) “person” means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

(13) “Reform Act” means the District of Columbia Retirement Reform Act (Pub. L. 96-122).

(14) “replacement plan” means the plan described in section 404.

(15) “replacement plan adoption date” means the date upon which the legislation enacted by the District Government establishing the replacement plan becomes effective.

(16) "Retirement Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the District of Columbia Teachers' Retirement Fund, and the District of Columbia Judges' Retirement Fund as defined in section 102(10) of the Reform Act.

(17) "retirement program" means any of the retirement programs for teachers, members of the Metropolitan Police Force and Fire Department, and judges, as described in section 102(7) of the Reform Act as in effect on the day before the freeze date.

(18) "Retirement Trust" means the District of Columbia Retirement Trust Fund created under section 301.

(19) "Secretary" means the Secretary of the Treasury or the Secretary's designee.

(20) "Trustee" means the person or persons designated by the Secretary under section 305.

SUBTITLE B -- FREEZING OF EXISTING PROGRAM

SEC. _201. FREEZE OF SERVICE UNDER THE RETIREMENT PROGRAM.

Except as provided in section 701 relating to judges, service after the freeze date shall not be credited under the retirement program for purposes of determining the amount of benefits an employee has accrued. Such service shall continue to be credited for all other purposes.

SEC. _202. DISABILITY BENEFITS AFTER THE SERVICE FREEZE.

Except as provided in section 701 relating to judges, in the case of a disability retirement in which disability retirement benefits commence after the freeze date, the only benefit payable from the Retirement Trust or the Federal Supplemental Fund with respect to disability is the deferred retirement benefit or normal retirement benefit the employee would receive if the employee left service on the day before disability retirement benefits commence.

SEC. _203. ~~PAYMENT OF BENEFITS:~~ DEATH BENEFITS AFTER THE SERVICE FREEZE.

~~[RESERVED FOR DISCUSSION]~~ Except as provided in section 701 relating to judges, in the case of a benefit under the retirement program that is payable on the death of an employee or former employee, and that is not determined by the length of service of the employee or former employee, the benefit payable from the Retirement Trust or the Federal Supplemental Fund shall be limited to the percentage of the entire benefit represented by a fraction, the numerator of which is the number of months of the employee's service prior to the freeze date, and the denominator of which is the total number of months of the employee's service.

SUBTITLE C -- RETIREMENT TRUST

SEC. _301. CREATION OF RETIREMENT TRUST.

There is established on the books of the Treasury the District of Columbia Retirement Trust Fund, which shall be administered by the Trustee. The assets of the Retirement Trust shall be used for the purpose of paying benefits under this title, the reasonable and necessary expenses of administering the Retirement Trust as determined pursuant to the contract in section 305(b), and for such other purposes as are specified in this title.

SEC. _302. TRANSFER OF ASSETS AND OBLIGATIONS.

(a) Except as provided in subsection (b) and in section 303, all obligations of the retirement program as of the freeze date and all assets of the Retirement Fund as of the replacement plan adoption date shall be transferred to the Retirement Trust as of the replacement plan adoption date.

(b) Subsection (a) shall not apply to any employee contributions made after the freeze date, nor to any interest thereon (computed at a rate and in a manner determined by the Secretary).

(c) The assets of the Retirement Trust are hereby made available for the payments of benefits and necessary administrative expenses.

SEC. _303. ALLOCATION OF ASSETS

(a) Except for the assets designated under subsection (b) and the contributions under section 302(b), all assets of the Retirement Fund shall be transferred to the Retirement Trust in accordance with the direction of the Secretary. The District Government shall promptly take all steps, and execute all

documents, that the Secretary deems necessary to effect the transfer.

(b) The Secretary shall designate assets with a value of \$ [INSERT NUMBER] that shall not be transferred under subsection (a). The Secretary's designation and valuation of the assets shall be final and binding.~~[RESERVED]~~

SEC. _304. TREATMENT OF RETIREMENT TRUST.

(a) For purposes of the Code and ERISA --

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

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

(3) the system of benefits under the Retirement Trust shall be treated as a governmental plan under section 414(d) of the Code and sections 3(33) and 4021(b)(2) of ERISA.

(b) The Code shall apply to the Retirement Trust only to the extent the Secretary determines that application of the Code is consistent with the administration of this title.

(c) The Retirement Trust shall not be considered an agency or department of the United States,~~including for purposes of the Budget Enforcement Act of 1990.~~

SEC. _305. SELECTION OF TRUSTEE.

(a) As soon as practicable after enactment of this title, the Secretary shall select a Trustee to carry out the responsibilities and duties specified in this title and defined by the contract.

(b) The Secretary shall enter into a contract with the Trustee to carry out the purposes of this title. The contract shall provide for the management, investment, control and auditing of Retirement Trust assets, the payment of benefits under this title from the Retirement Trust and such other matters as the Secretary deems

appropriate.

SEC. _306. POWERS AND DUTIES OF THE SECRETARY.

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

(b) The Secretary shall enforce the provisions of this title and the contract, and shall monitor the administration of the Retirement Trust.

(c) The Secretary is authorized to requisition from the Retirement Fund such sums as are necessary to administer the Retirement Trust and Actuarial Board until assets are transferred to the Retirement Trust. After assets are transferred to the Retirement Trust, such administrative payments shall be made from the Retirement Trust pursuant to subsection (d).

(d) All payments for necessary administrative expenses of the Retirement Trust shall be set forth in an annual budget, which is subject to the certification and approval of the Secretary.

SEC. _307. PAYMENTS AFTER DEPLETION OF RETIREMENT TRUST ASSETS.

(a) Not later than 18 months before the time that assets remaining in the Retirement Trust are projected to be insufficient to pay benefits and necessary administrative expenses when due, the Secretary shall so advise the President and the Congress.

(b) Before all available assets of the Retirement Trust have been depleted, the Secretary shall determine whether payment of benefits and necessary administrative expenses under this title shall be made by --

(1) Continuation of the Retirement Trust using payments from the Federal Supplemental Fund; or

(2) Discontinuance of the Retirement Trust, and

(A) Direct payment by the Secretary from the Federal

Supplemental Fund; or

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

(c) If the Secretary determines that the Retirement Trust shall be discontinued after it has been depleted of assets, the Secretary shall appoint a successor to the Trustee to administer the payment of benefits under this title, and said appointee shall have the powers given to the Trustee in this subtitle and subtitle D.

(d) The Secretary shall make appropriate arrangements to implement the determinations made in this subsection.

(e) The arrangements for payments of benefits and necessary administrative expenses after the Retirement Trust has been depleted of assets shall be subject to the same treatment as similar arrangements under section 304.

SEC. 308. FEDERAL INFORMATION SHARING.

(a) Notwithstanding section 6103 of title 26 and section 552a of title 5, United States Code, the Secretary may

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

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

(b) The Secretary may issue regulations governing the confidentiality of the information pursuant to subsection (a).

SEC. 309. RESPONSIBILITIES AND POWERS OF THE TRUSTEE.

(a) The Trustee shall perform its obligations under this title and the contract.

(b)(1) In accordance with procedures approved by the Secretary, the Trustee shall provide to any participant or beneficiary whose claim for benefits under this

title has been denied in whole or in part ———

(A) written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average plan participant; and

(B) reasonable opportunity for review of the benefit determination.

(2) Any factual determination made by the Trustee shall be presumed correct unless rebutted by clear and convincing evidence. The Trustee's interpretation and construction of the benefit provisions of the retirement program and this title shall be entitled to great deference.

(c) The Trustee may monitor and review the benefit eligibility of persons receiving benefits under this title. Notwithstanding any other provision of law, the Trustee is authorized to correct any errors in benefit determinations, and is further authorized to recoup or recover any benefit overpayments.

(d) The Trustee shall engage an enrolled actuary (as defined in section 7701(a)(35) of the Code) who is a member of the American Academy of Actuaries who shall perform an annual actuarial valuation (in a manner and form determined by the Secretary) of the Retirement Trust and the Federal Supplemental Fund for obligations assumed by the federal government under this title for benefits and necessary administrative expenses under the retirement program. The valuation shall use methods and assumptions approved by the Actuarial Board under section 604. An annual report by the enrolled actuary shall be provided to the Secretary, the Trustee and the Actuarial Board. Each report shall project when assets in the Retirement Trust will be insufficient to pay benefits and necessary administrative expenses when due.

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

SUBTITLE D -- DISTRICT GOVERNMENT

SEC. _401. INTERIM ADMINISTRATION.

(a) After the enactment of this title the District Government shall continue to discharge its duties and responsibilities under the retirement program and Retirement Fund, as modified by subtitle B, until such time as the District Government is notified by the Secretary that the Secretary has directed the Trustee to commence such duties and responsibilities.

(b) The District Government's reasonable and necessary expenses incurred pursuant to its responsibilities under subsection (a) shall be reimbursed from the Retirement Trust.

(c) The District Government shall reimburse the Retirement Fund for any benefits paid inconsistent with subtitle B from the Retirement Fund between the freeze date and the replacement plan adoption date.

SEC. _402. RECORDS TRANSFER.

Within 30 days after the Secretary or the Trustee requests, the District Government shall furnish copies of all records, documents, information, or data the Secretary or the Trustee deems necessary to carry out their responsibilities under this title and the contract. Upon request, the Secretary or the Trustee shall be granted direct access to such information systems, records, documents, information or data as will enable them to carry out their responsibilities under this title or the contract. The District Government shall reimburse the Retirement Trust for all costs, including benefit costs, that are attributable to errors or omissions in the transferred records.

SEC. _403. FINAL RECONCILIATION.

As soon as practicable after the replacement plan adoption date, the District Government shall furnish the Trustee a final reconciliation of accounts in connection with the transfer of assets and obligations to the Retirement Trust. The allocation of assets under section 303 shall be adjusted in accordance with this reconciliation.

SEC. _404. REPLACEMENT PLAN.

(a) No later than one year from the date of enactment of this title, or such

later time as the Secretary may prescribe, the District Government shall adopt a replacement plan to be effective as of the freeze date.

(b) If the District Government fails to adopt a replacement plan within the period prescribed in subsection (a), the transfer of assets and obligations under section 302 shall not occur and the retirement program and Retirement Fund shall remain the responsibility of the District Government.

SUBTITLE E -- THE ACTUARIAL BOARD

SEC. 501. ESTABLISHMENT OF THE ACTUARIAL BOARD.

(a) There is established in the Department of the Treasury a Department of the Treasury Retirement Board of Actuaries. The Actuarial Board shall consist of three members, who shall be appointed by the Secretary from among enrolled actuaries who are members of the American Academy of Actuaries.

(b)(1) Except as provided in paragraph (2), the members of the Actuarial Board shall serve for a term of six (6) years, except that a member of the Actuarial Board appointed to fill a vacancy occurring before the end of the term for which a predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the term until a successor has taken office. A member of the Actuarial Board may be removed by the Secretary for misconduct or failure to perform the functions of the Actuarial Board, and for no other reason.

(2) Of the members of the Actuarial Board who are first appointed under this subsection, one each shall be appointed for terms ending two, four, and six years, respectively, after the date of appointment, as designated by the Secretary at the time of appointment.

(c) A member of the Actuarial Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of the duties of the Actuarial Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

SEC. _502. GENERAL DUTIES OF THE ACTUARIAL BOARD.

The Actuarial Board shall review the actuarial valuation reports produced by the enrolled actuary engaged by the Trustee, and report to the Secretary annually on the actuarial status of the Retirement Trust and the Federal Supplemental Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

SUBTITLE F -- FEDERAL SUPPLEMENTAL FUND

SEC. _601. ESTABLISHMENT OF THE FEDERAL SUPPLEMENTAL FUND.

There is established on the books of the Treasury the Federal Supplemental District of Columbia Pension Fund, which shall be administered by the Secretary. The Federal Supplemental Fund shall be a trust within the federal budget, to be used for the accumulation of funds in order to finance obligations of the federal government for benefits and necessary administrative expenses under the provisions of this title.

SEC. _602. ASSETS OF THE FEDERAL SUPPLEMENTAL FUND.

There shall be deposited into the Federal Supplemental Fund the following, which shall constitute the assets of the Federal Supplemental Fund:

- (a) Amounts paid into the Federal Supplemental Fund under the provisions of this title.
- (b) Any amount appropriated to the Federal Supplemental Fund.
- (c) Any return on investment of the assets of the Federal Supplemental Fund.

SEC. _603. PAYMENTS FROM THE FEDERAL SUPPLEMENTAL FUND.

The assets of the Federal Supplemental Fund are hereby made available for the payments of benefits and, to the extent and in such amounts as are provided in advance in appropriations acts, necessary administrative expenses upon the depletion of the assets of the Retirement Trust.

SEC. _604. DETERMINATION OF COSTS UNDER THE FEDERAL SUPPLEMENTAL FUND.

(a) Not later than six months after the Actuarial Board is first appointed, the Actuarial Board shall determine the amount that is the present value as of the freeze date of future benefits payable from the Federal Supplemental Fund, which shall be the original unfunded liability of the Federal Supplemental Fund. The Actuarial Board shall determine an amortization schedule for the liquidation of the original unfunded liability over a 30-year period.

(b)(1) The Actuarial Board shall determine on an annual basis the normal cost for judges under the retirement program.

(2) The Actuarial Board shall determine on an annual basis an amortization methodology and schedule for the amortization of the change in unfunded liability of the Federal Supplemental Fund due to:

(A) a change in benefits;

(B) a net experience gain or loss;

(C) a change in actuarial assumptions; or

(D) a change in actuarial methods.

(3) The Actuarial Board shall determine on an annual basis the amount of the necessary administrative expenses of the Federal Supplemental Fund. This determination is subject to the review and approval of the Secretary.

(c) All determinations under this section shall be made using methods and assumptions approved by the Actuarial Board (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(d) The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the Federal Supplemental Fund.

SEC. 605. PAYMENTS INTO THE FEDERAL SUPPLEMENTAL FUND.

(a) The Actuarial Board annually shall determine and certify to the Secretary the sum of the amount in section 604(a), the normal cost under section 604(b)(1)

(net of judges' contributions), and the amount of amortization payments under section 604(b)(2). The sum of such amounts may not be less than zero. To this sum shall be added the amount of necessary administrative expenses in section 604(b)(3).

(b) At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury the amount certified under subsection (a).

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

SEC. _606. INVESTMENT OF ASSETS OF FEDERAL SUPPLEMENTAL FUND.

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

SUBTITLE G -- JUDGES' RETIREMENT PROGRAM

SEC. _701. CONTINUATION OF RETIREMENT PROGRAM FOR JUDGES.

Notwithstanding subtitle B, active and new judges shall continue to accrue service and benefits as provided under the retirement program in effect on the freeze date.

SEC. _702. SOURCE OF JUDGES' BENEFITS.

Benefits for judges provided under the Retirement Program shall be paid from the Retirement Trust until such time as assets of the Federal Supplemental Fund become available under section 603, after which benefits for judges will be paid from the Federal Supplemental Fund.

SEC. _703. JUDGES' CONTRIBUTIONS.

Any judges' contributions made after the replacement plan adoption date shall be paid into the Federal Supplemental Fund.

SUBTITLE H -- ENFORCEMENT

SEC. _801. JUDICIAL REVIEW.

(a) A civil action may be brought--

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

(2) by the Trustee--

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

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

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

(b) The Retirement Trust may sue and be sued as an entity.

(c) This subtitle shall be the exclusive means for bringing actions against the Retirement Trust, the Trustee or the Secretary under this title.

SEC. _802. JURISDICTION AND VENUE.

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

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

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

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

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

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

SEC. 803. LIMITATIONS OF ACTIONS.

(a) Any civil action by a participant or beneficiary for benefits under this title shall be commenced within 180 days of a final benefit determination.

(b) Any civil action for breach of the contract or violation of this title shall be commenced within the later of——

(1) six years after the last action that constituted a breach of the contract or violation of this title or, in the case of an omission, six years after the last date on which the breach or violation could have been cured; or

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

(c) Notwithstanding subsection (b), any action against the Secretary arising (in whole or part) under this title or the contract shall be commenced within one

year of the events giving rise to the cause of action.

SEC. _804. MISAPPROPRIATION.

The provisions of section 664 of title 18 United States Code shall apply to the Retirement Trust and the Federal Supplemental Fund.

SUBTITLE I -- MISCELLANEOUS

SEC. _901. SEVERABILITY OF PROVISIONS.

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

SEC. _902. FULL FAITH AND CREDIT.

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

SEC. _903. OTHER LAWS

(a) Nothing in this title shall be deemed to alter or amend in any way the provisions of existing law (including D.C. Code sec. 4-601 et seq.) relating to the program of annuities, other retirement benefits, or medical benefits for members and officers~~(and, retired members and officers)~~, and survivors thereof, of the United States Park Police force, the United States Secret Service, or the United States Secret Service Uniformed Division.

(b) This title supersedes any provision of the Reform Act inconsistent with this title and the regulations thereunder.

(c) Notwithstanding section 144 of the Reform Act, no Federal payment is authorized to be appropriated to the Retirement Fund after fiscal year 1997.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 5-MAY-1997 16:27:50.00

SUBJECT: Re: Questions on the new language

TO: Harry E. Moran (CN=Harry E. Moran/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Jeffrey A. Weinberg (CN=Jeffrey A. Weinberg/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:

I think that Rusty agreed with these changes proposed by PBGC on the legislation. We are trying to get Roz Rettman to address the 304(c) issue. She called me and I have called her back but no connection yet.

My take is (besides the Labor 180 issue) and this 304 (c) we might be o.k.?!@#@! (such an optimist...)

----- Forwarded by Toni S. Hustead/OMB/EOP on 05/05/97
03:11 PM -----

Sirkin.Stuart @ pbgc.gov
05/02/97 02:15:00 PM

Record Type: Record

To: Toni S. Hustead

cc:

Subject: Re: Questions on the new language

Responded that you were out until Monday.

I assume you can forward this to Rusty or whoever else needs to receive it. We will take out

administrative expenses (its not needed). We will also refer only to 304(a) and (b) to eliminate

any concern about (c), although the reference does not harm. As for why we put the language

in 307, we don't know how benefits will be paid once the Ret Trust is exhausted. This way we

cover all situations (including from the Supplemental fund) without limiting it to the Supp. Fund.

We have a question for you or probably Rusty. Section 601 says "a trust

within the federal budget" in addition to "on the books of the Treasury." Section 301 only has the latter.

They should be consistent; is the language with respect to the federal budget necessary?

From: Toni_S._Hustead
To: Sirkin Stuart; Pacelli Jane; Gustafson David
Subject: Questions on the new language
Date: Fri, May 2, 1997 12:35PM

** This E-mail and its attachments are free from any known virus.**

Message Creation Date was

Stuart, I think that you are the best person to address Rusty's Questions. Could you email back all of us with your thoughts?

----- Forwarded by Toni S. Hustead/OMB/EOP on 05/02/97
11:24
AM

Harry E. Moran

05/02/97 09:24:06 AM
Record Type: Record

To: Toni S. Hustead/OMB/EOP
cc: M. Jill Gibbons/OMB/EOP
Subject: Re: New DC Pension Legislation

I'm satisfied with the changes I recommended. However, I don't understand the new sec. 307(e). Does this apply to the payments made from the Supplemental Fund? If so, shouldn't it be in Subtitle F? Shouldn't only apply to benefit payments and not to admin.? If 304(c) remains in, it should definitely not apply to the Supplemental Fund, I would think.

----- Message Header Follows -----

Received: from MAIL.PBGC.GOV by mail.pbgc.gov
(PostalUnion/SMTP(tm) v2.1.9a for Windows NT(tm))
id AA-1997May02.123327.1484.217031; Fri, 02 May 1997 12:33:28 -0400
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(Integralis SMTPRS 1.51) with SMTP id <B0000036873@MAIL.PBGC.GOV>;
Fri, 02 May 1997 12:33:06 -0400
Received: from pmdf.eop.gov by gatekeeper.eop.gov;
(5.65v3.2/1.1.8.2/17Oct95-0424PM)
id AA28992; Fri, 2 May 1997 12:31:00 -0400

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id <01IIE79N9CIO000BCS@PMDF.EOP.GOV>; Fri, 02 May 1997 12:30:56 -0500
(EST)
Received: with PMDF-MR; Fri, 02 May 1997 12:30:52 -0500 (EST)
Mr-Received: by mta EOPMRX; Relayed; Fri, 02 May 1997 12:30:52 -0500
Alternate-Recipient: prohibited
Disclose-Recipients: prohibited
Date: Fri, 02 May 1997 12:30:52 -0500 (EST)
From: Toni_S._Hustead@oa.eop.gov
Subject: Questions on the new language
To: Sirkin.Stuart@pbgc.gov, Pacelli.Jane@pbgc.gov, Gustafson.David@pbgc.gov
Message-Id: <01IIE79OTCC0000BCS@mr.eop.gov>
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Content-Transfer-Encoding: 7BIT

Any views expressed by the author of this message are not those of
the Pension Benefit Guaranty Corporation.
#####

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
RFC-822-headers:
Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IIECXVGH4000CTY@PMDF.EOP.GOV> for "Toni S. Hustead"@oa.eop.gov; Fri,
02 May 1997 15:13:12 -0500 (EST)
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id <01IIECXTRE8G0002PG@PMDF.EOP.GOV> for Toni_S._Hustead@oa.eop.gov; Fri,
02 May 1997 15:13:10 -0500 (EST)
Received: from MAIL.PBGC.GOV by gatekeeper.eop.gov;
(5.65v3.2/1.1.8.2/17Oct95-0424PM) id AA05952; Fri, 02 May 1997 15:13:09 -0400

Received: from mail.pbgc.gov (206.105.222.10)
by MAIL.PBGC.GOV (Integralis SMTPRS 1.51)
with SMTP id <B0000037095@MAIL.PBGC.GOV>; Fri, 02 May 1997 15:15:03 -0400
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by mail.pbgc.gov (PostalUnion/SMTP(tm) v2.1.9a for Windows NT(tm))
id AA-1997May02.151100.1484.342584; Fri, 02 May 1997 15:15:22 -0400
Organization: Pension Benefit Guaranty Corporation
X-Mailer: Microsoft Mail via PostalUnion/SMTP for Windows NT

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toni S. Hustead (CN=Toni S. Hustead/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 5-MAY-1997 16:02:43.00

SUBJECT: Re: DC Pension - outstanding issues

TO: Mark D. Menchik (CN=Mark D. Menchik/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Larry R. Matlack (CN=Larry R. Matlack/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TEXT:
Mark,

You are correct in that Ed's changed the \$400 million to \$450 last week. This statement is : " While net Federal costs come to over \$450 million over 5 years, the Plan will save DC nearly \$750 million over the same period. Most of this difference results because pension assets -- not other Federal budget resources -- will be used to pay beneficiaries until after 2002."

Our leaving behind assets did not change the federal liability between now and 2002. This was the one most sacred assumption. The assets that we take with us will definitely last beyond this time. Hence, his adjustment had nothing to do with these assets levels - they were fine tuning other items.

In regard to changing "the third-party trustee" to "trustee" -- I can only speculate that they felt that it was not necessary to clearly define this and gives us more room. Our proposed legislation states that the Treasury must enter into a contract with a Trustee (implying that it is not within the Treasury). It does not say any where that this Trustee can not be the current Trustee or part of the government (franchise funds etc). Omitting "third-party" ensures that the Administration can avoid being fenced in in the future as to the Trustee.

Mark D. Menchik 05/05/97 03:12:52 PM

Record Type: Record

To: Toni S. Hustead/OMB/EOP
cc: Ingrid M. Schroeder/OMB/EOP, Ellen S. Seidman/OPD/EOP, Larry R. Matlack/OMB/EOP
bcc:
Subject: Re: DC Pension - outstanding issues

I agree with 1, 3, and 4. Thanks, Toni!

On #2, I was under the impression (perhaps "misimpression") that the new numbers involved an increased federal financial commitment for DC pensions, not just a recalculation of the original commitment. Last week, Ed's draft testimony was changed from federal payments of "about \$400 million" over 5 years to "over \$450 million." Is this a real increase? If so, is it associated with the changed expectation of the pension assets to be left with DC?

In the second package of PBGC edits (p. 3, sec 2, line 5) the phrase "a third party Trustee" is changed to "a Trustee". Does anyone know the origin of this edit? I wouldn't want to weaken the "third-party-ness" of the Administration plan.

Thanks.

Toni S. Hustead
05/05/97 01:57:55 PM
Record Type: Record

To: Ingrid M. Schroeder/OMB/EOP
cc: Ellen S. Seidman/OPD/EOP, Mark D. Menchik/OMB/EOP, Larry R. Matlack/OMB/EOP
Subject: DC Pension - outstanding issues

I have a fax here that asks to arrange a conference call. In the interest of time, I thought that I would address some of the comments -- as I think many agree. Maybe then, the conference call can be quicker.

1) Adoption date:

In the Definitions for the Pension section of the MOU, PBGC altered the language to read:

"Adoption date" means the date the legislation enacted by the District government establishing the Replacement Plan becomes effective." This mirrors the definition in the legislation Section 104 (15). In the legislation, none of the liability moves until the adoption date. No wiggle room here! I believe this definition solves Treasury's problem and Menchik's problem.

2) This is background for M Menchik on the "leaving significant amount of pension assets with DC". The assets left with the District have been "solved for" by the actuaries. Essentially, FDR stated exactly how much savings DC would get in testimony. The pension part of the proposal has been the plug item. It was determined that we needed to save about \$250 million in pension contributions for DC in FY98. This meant that their

payment to the fund must be \$57 million since their current contribution would be \$307 million. Using either the entry age normal cost or the aggregate funding method, we solved for what amount of assets would have to stay behind in order to come up with a \$57 million fund payment. We would have to leave behind about \$1.275 billion dollars ("a significant amount"). This would give us about \$2.5 billion. We did not want to write the exact amount in here as all of these are estimates and will be estimates until the legislation is enacted into law.

3) PBGC, OMB, and the DC consulting actuary all feel that the aggregate funding method should be used by the District in the future. This is why we added this amount. Both the aggregate and the entry age normal give the same DC contribution amount in the first year. I believe no one to date has voiced a problem with this.

4) The reason that "under the terms of the existing program" was eliminated is because we do not want to alter benefits with this legislation. Some of the benefits have twice a year colas, some have once a year colas, and some have recomputation (where benefits are increased with pay increases!). It would be tempting to alter these -- but the intent was to produce pension legislation where the govt merely took over existing liability. However, it was decided not to lock in something that has never been locked in in the past with this legislative package. Over and over again courts have ruled that federal colas are not considered property. It is an area that the congress and/or the administration may want to assess down the road. The decision was made to eliminate "under the terms of the existing program" so that this decision is not addressed now.

I think that I have aligned all of the concerns that you have given us. Let me know if you still want a conference call.