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48 Box 9 - [JGR/*Chadha* re: District of Columbia] (12) - Roberts,
John G.: Files SERIES I: Subject File

Late Report—DOD Authorization: Conferees received permission to have until midnight tonight to file a conference report on H.R. 5167, Department of Defense Authorization Act for fiscal year 1985.

Subsequently, it was made in order to consider the conference report on H.R. 5167 on Wednesday, September 25, or any day thereafter; that all points of order against said conference report be waived; and that the conference report be considered as read.

Page H10023

Federal Records Preservation: House insisted on its amendments to S. 905, to establish the National Archives and Records Administration as an independent agency; and agreed to a conference. Appointed as conferees: Representatives Brooks, Fuqua, English, Horton, and Kindness.

Page H10031

Continuing Appropriations: By a yea-and-nay vote of 316 yeas to 91 nays, Roll No. 421, the House passed H.J. Res. 648, making continuing appropriations for the fiscal year 1985.

Agreed to a motion to recommit the joint resolution to the Committee on Appropriations with instructions to report it back forthwith with an amendment inserting comprehensive crime control language (text of H.R. 5963) (agreed to by a recorded vote of 243 yeas to 166 noes, Roll No. 420). Subsequently, the joint resolution was reported back to the House with the amendment, and the amendment was agreed to.

On a demand for a separate vote, agreed to an amendment that provides \$50 million for States to train child care facilities staff and parents of attending children in the prevention of child abuse (agreed to by a recorded vote of 369 yeas to 37 noes, Roll No. 419). Earlier, the amendment was agreed to in the Committee of the Whole by a voice vote.

Agreed To:

An amendment that provides funding for the Corporation for Public Broadcasting for fiscal year 1987 at the same level as provided in fiscal year 1986;

An amendment that ensures that food stamp recipients are issued an allotment that reflects the full cost of the thrifty food plan;

An amendment that provides for the enactment of the language of H.R. 3678 as passed by the House, Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act (agreed to by a recorded vote of 336 yeas to 64 noes, Roll No. 413);

An amendment that prohibits the Federal Government from contracting out the administration of 30 Job Corps civilian conservation centers that are now administered by the Departments of Agriculture and

the Interior (agreed to by a recorded vote of 242 yeas to 162 noes, Roll No. 415);

An amendment that provides that changes to the District of Columbia Charter would become effective 35 days after submission to Congress unless a joint resolution of disapproval was enacted and sent to the President;

An amendment that provides for the enactment of the provisions of H.R. 5119 as passed by the House, International Security and Development Cooperation Act of 1984; and

An amendment that reduces appropriations for foreign assistance programs by 2 percent, except for funds for Egypt and Israel (agreed to by a recorded vote of 273 yeas to 134 noes, Roll No. 417).

Rejected an amendment that sought to reduce all discretionary spending levels by 2 percent for programs in the Departments of Labor, Education, and Health and Human Services (rejected by a recorded vote of 122 yeas to 284 noes, Roll No. 418).

H. Res. 588, the rule under which the joint resolution was considered, was agreed to earlier by a recorded vote of 257 yeas to 135 noes, Roll No. 412. Agreed to order the previous question on the rule by a yea-and-nay vote of 218 yeas to 174 nays, roll No. 411.

The Clerk was authorized to correct section numbers, cross references, and punctuation in the engrossment of the joint resolution.

Page H10031

Technical Housing Corrections: House insisted on its amendments to S. 2819, to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983; and agreed to a conference. Appointed as conferees: Representatives St Germain, Gonzalez, Fauntroy, Patterson, Lundine, Wylie, and McKinney.

Page H10132

Late Report—Budget: Conferees received permission to have until midnight tonight to file a conference report on H. Con. Res. 280, revising the congressional budget for the United States Government for the fiscal year 1984 and setting forth the congressional budget for the United States Government for the fiscal years 1985, 1986, and 1987.

Subsequently, it was made in order to consider the conference report on Wednesday, September 26, or any day thereafter.

Page H10132

Referrals: Two Senate-passed measures were referred to the appropriate House committees.

Page H10192

Quorum Calls—Votes: Two quorum calls, two yea-and-nay votes, and seven recorded votes developed during the proceedings of the House today and

H.R. 3932

ALL
DATE INTRODUCED: 09/20/83

CALENDAR NO: U 239
1173

SPONSOR: Fauntroy

H.REPT. 98-393

S.REPT. 98-635 *requested
pick-up*

REFERRED TO: House District of Columbia
Senate Committee on Governmental Affairs
REPORTED BY: Senate Committee on Governmental Affairs
House District of Columbia

LATEST OFFICIAL TITLE:

OFFICIAL TITLE AS INTRODUCED AS OF 09/21/83

A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

LEGISLATIVE ACTIONS:

Sep 20, 83 Referred to House Committee on District of Columbia.

Sep 28, 83 Committee Consideration and Mark-up Session Held.

Sep 28, 83 Ordered to be Reported (Amended).

PAGE 1 OF 5. READY FOR COMMAND, OPTION OR PG # (FOR NXT PG, RETURN):

H.R. 3932 (LG98) continued:

Sep 28, 83 Reported to House (Amended) by House Committee on District of Columbia. Report No: 98-393.

Sep 28, 83 Placed on Union Calendar No: 239.

Oct 4, 83 Called up by House as D.C. Business.

Oct 4, 83 Passed House (Amended) by Voice Vote.

Oct 6, 83 Received in the Senate and read twice and referred to the Committee on Governmental Affairs.

Jul 26, 84 Committee on Governmental Affairs. Ordered to be reported in lieu of S. 1858 with an amendment in the nature of a substitute favorably.

Jul 26, 84 Committee on Governmental Affairs incorporated provisions of related measures S. 1858 in reported measure.

Sep 13, 84 Committee on Governmental Affairs. Reported to Senate by Senator Mathias with an amendment in the nature of a substitute. Without written report.

Sep 13, 84 Placed on Senate Legislative Calendar under General Orders. Calendar No. 1173.

Sep 25, 84 By Senator Mathias from Committee on Governmental Affairs filed written report. Report No. 98-635.

ALL, PAGE 2 OF 5. READY FOR COMMAND, OPTION OR PG # (FOR NXT PG, RETURN):

H.R. 3932 (LG98) continued:

ABSTRACT:

Amends the District of Columbia Self-Government and Governmental Reorganization Act to modify the procedure by which Congress reviews an Act passed by the District of Columbia City Council or an amendment to the District of Columbia Charter.

Repeals provisions of the District of Columbia Retirement Reform Act which permit either House of Congress by a concurrent resolution to reject any report submitted by the Retirement Board.

DIGEST:

10/04/83 (Measure passed House, amended)

Amends the District of Columbia Self-Government and Governmental Reorganization Act to modify the procedure by which Congress reviews an act passed by the District of Columbia City Council or an amendment to the District of Columbia Charter.

ALL, PAGE 3 OF 5, READY FOR COMMAND, OPTION OR PG # (FOR NXT PG, RETURN):

H.R.3932 (LG98) continued:

submission to Congress unless a Joint resolution of disapproval has been enacted and presented to the President.

Makes an act of the City Council effective after 30 days following transmittal to Congress unless a Joint resolution of disapproval has been enacted and presented to the President. (Currently, an act of the Council becomes effective only if both Houses of Congress do not adopt a concurrent resolution of disapproval.

Amends the District of Columbia Retirement Reform Act require both Houses of Congress to adopt a Joint resolution before any report submitted by the Retirement Board may be rejected. (Currently, either House of Congress may reject a report by a simple resolution.)

INDEX TERMS:

LOCAL GOVERNMENT/LOCAL GOVERNMENT--DISTRICT OF COLUMBIA/MUNICIPAL POLITICS AND GOVERNMENT/CONGRESSIONAL OVERSIGHT/LEGISLATION--DISTRICT OF COLUMBIA/CIVIL SERVICE RETIREMENT/CONGRESS AND MEMBERS OF CONGRESS/DISTRICT OF COLUMBIA/LEGISLATION REVIEW/DISTRICT OF COLUMBIA EMPLOYEES/RETIREMENT/RETIREMENT BOARD REPORTS/DISTRICT OF COLUMBIA GOVERNMENT/CITY COUNCIL/CONGRESSIONAL REVIEW OF

ALL, PAGE 4 OF 5, READY FOR COMMAND, OPTION OR PG # (FOR NXT PG, RETURN):

H.R.3932 (LG98) continued:

LEGISLATION/LEGISLATIVE RESOLUTIONS

ALL, PAGE 5 OF 5, READY FOR NEW COMMAND, OPTION OR PG #:

TO AMEND THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT, AND FOR OTHER PURPOSES

SEPTEMBER 28, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DELLUMS, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany H.R. 3932]

[Including cost estimate of the Congressional Budget Office]

The Committee on the District of Columbia, to whom was referred the bill (H.R. 3932) to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, strike out lines 13 through 22, and redesignate the subsequent subsections accordingly.

Page 5, strike out lines 9 and 10, and insert in lieu thereof the following:

SEC. 3. Section 164(a)(3) of the District of Columbia Retirement Reform Act is amended to read as follows:

“(3)(A) The Congress may reject any filing under this section within thirty days of such filing by enacting a joint resolution stating that the Congress has determined—

“(i) that such filing is incomplete for purposes of this part;

or

“(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

“(B) If the Congress rejects a filing under subparagraph (A) and if either a revised filing is not submitted within forty-five days

after the enactment under subparagraph (A) rejecting the initial filing or such revised filing is rejected by the Congress by enactment of a joint resolution within thirty days after submission of the revised filing, then the Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

"(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

"(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

"(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, the Congress enacts a joint resolution disapproving such filing."

PURPOSE OF THE BILL

The purpose of H.R. 3932 is to remove the cloud that has been created over legislation passed by the District of Columbia in the wake of the United States Supreme Court's decision in *Immigration and Naturalization Service v. Chadha*, 103 S. Ct. 3556 (1983), and related cases. *Chadha* held that congressional veto provisions embodied in several federal statutes were unconstitutional. The District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, hereafter the "Home Rule Act") contains provisions which allow for congressional veto.

In each instance in the Home Rule Act where a congressional veto is allowed, it is changed to require a joint resolution. The import of this change is that in order to repeal an act of the District of Columbia Government, both Houses of Congress must act, and the act of Congress must be presented to the President for signature or veto.

MAJOR PROVISIONS

In addition to striking the congressional veto provisions in the Home Rule Act, the bill makes valid all laws previously passed by the District, adds a severability clause to the Home Rule Act, and changes the District of Columbia Retirement Reform Act (Public Law 96-122) by also striking the congressional veto provisions and inserting in lieu thereof the requirement for joint resolution.

BACKGROUND AND NEED FOR THE LEGISLATION

The United States Supreme Court in *Immigration and Naturalization Service v. Chadha*, 103 S. Ct. 2764 (1983), held unconstitutional the congressional veto provision in the Immigration and Na-

tionality Act which allowed one House of Congress to disapprove action by the Attorney General of the United States in suspending the deportation of an alien under the Act. In related cases, the Court held unconstitutional two other federal statutes with similar congressional veto provisions, *United States Senate v. Federal Trade Commission* and *Process Gas Consumers Group v. Consumers Energy Council of America*, 103 S. Ct. 3556 (1983).

In *Chadha*, the Court based its holding on the failure of the congressional action to comply with the requirements of bicameral legislative action and presentation to the President as contained in Article 1, Sections 1 and 7 of the U.S. Constitution. More specifically, the Court held that legislative action which has the effect of altering the legal rights, duties and relations of persons outside the legislative branch must be embodied in actions of both houses of Congress, then presented to the President for approval or disapproval, with override of the latter by a two-thirds vote of both houses.

The District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, as amended, hereafter the Home Rule Act) in several places contains provisions for congressional veto of acts of the District of Columbia Government. According to many experts, these provisions fail the Constitutional test set down in *Chadha*. For example, the legislative veto provisions of the Home Rule Act were listed in Justice White's dissent in the *Chadha* case. Justice White listed 56 acts of Congress which would be invalidated by the Court's decision. The legislative veto provisions of the Home Rule Act were also included in a more comprehensive list of 207 congressional veto provisions which the United States Department of Justice submitted to the Congress as failing the test for Constitutionality as found in the *Chadha* decision. And the Congressional Research Service of the Library of Congress in a special report concluded that the legislative veto provisions of the Home Rule Act were suspect under *Chadha*. See "The Legislative Veto Provisions of the District of Columbia Home Rule Act in the Wake of *INS v. Chadha*," by Richard Ehlke, Specialist in American Public Law, American Law Division, July 5, 1983.

It is the considered opinion of the Committee, in consultation with the District Government, that corrective legislation is the best way to excise the District of Columbia Home Rule Act from the taint of *Chadha*.

LEGISLATIVE HISTORY

The *Chadha* case was decided by the United States Supreme Court on June 23, 1983. Shortly after the decision, Members of the Committee met at an informal roundtable meeting with the Mayor of the District and the Chairman of the District of Columbia Council, along with several local Home Rule Act and Constitutional experts, and staff from the Senate. Following the roundtable meeting, subsequent working meetings were held. The bill, H.R. 3932, was drafted as a result of those meetings and was introduced on September 20, 1983. An identical bill, S. 1858, was introduced in the Senate on the same day.

During the meetings which led to the drafting of the bill, consultations were held with staff of the House Rules Committee the House Parliamentarian's Office, House and Senate Legislative Counsel and Senate Legal Counsel. In addition, the executive and legislative branches of the D.C. Government were closely consulted as well as the District's bond counsel. The District's bond counsel indicated that, in light of the *Chadha* decision, an "unqualified" legal opinion could not be secured for bonds which the District might issue. The absence of an unqualified legal opinion makes any bond issue by the District effectively unmarketable. Presently, the District has Housing Finance Agency Bonds prepared for marketing, and has plans for other types of bonds in short order.

H.R. 3932 is a straightforward proposal, containing technical amendments to the District of Columbia Home Rule Act, designed to conform to the mandates of *Chadha*. It does not eliminate congressional oversight of District passed legislation. It does not reduce the time for congressional review. Indeed, with Presidential involvement, it has the potential of extending the time for congressional review. And, H.R. 3932 does not change the manner in which the House District of Columbia Committee functions in the event Congress chooses to involve itself in acts of the District of Columbia Government.

Because of the extensive and inclusive meetings that were held on this proposal, the urgent need to remove the *Chadha* cloud from District legislation and the fact that the bill, H.R. 3932, does not contain any major policy changes, it was felt that a hearing was not necessary.

Letters from the District's bond counsel are set out in this report.

COMMITTEE AMENDMENTS

Two amendments were passed by the Committee. The first struck the section of the bill, H.R. 3932, which allowed the District of Columbia Council by resolution "to express simple determinations, decisions, or directions . . . of special or temporary character; and to approve or disapprove, when specifically authorized by act, proposed actions designed to implement an act of the Council." The Committee felt that this section did not take into account the need for congressional review of District of Columbia Council action and that it went beyond the concerns raised by the *Chadha* decision.

The second amendment deleted the section of the bill which repealed section 164(a)(3) of the District of Columbia Retirement Reform Act. Currently section 164(a)(3) requires the District of Columbia Retirement Board to annually submit a report to Congress and allows Congress by resolution of one house to reject the report. The Committee inserted a requirement for joint resolution by the Congress for rejection of the Board's request. This requirement conforms to other sections of the bill and also insures continued involvement by the Congress in the annual review of the Retirement Board's actions.

Section 1

(a) Charter District of Columbia Home Rule Act (H.R. 3932) joint resolution which provides that the period permitted for the ratification of such resolution shall not be deemed to have expired.

(b) Limitation on the power of the District of Columbia Council to amend the Home Rule Act in order that if such amendment is passed by the President within the period permitted for the ratification of such resolution, the amendment shall not be deemed to have expired.

(c) Limitation on the power of the District of Columbia Council to amend the Home Rule Act in order that if such amendment is passed by the President within the period permitted for the ratification of such resolution, the amendment shall not be deemed to have expired.

(d) Limitation on the power of the District of Columbia Council to amend the Home Rule Act in order that if such amendment is passed by the President within the period permitted for the ratification of such resolution, the amendment shall not be deemed to have expired.

(e) Limitation on the power of the District of Columbia Council to amend the Home Rule Act in order that if such amendment is passed by the President within the period permitted for the ratification of such resolution, the amendment shall not be deemed to have expired.

(f) Congress shall have the power to amend the Home Rule Act in order that if such amendment is passed by the President within the period permitted for the ratification of such resolution, the amendment shall not be deemed to have expired.

(g) Emergent powers of the District of Columbia Council shall be subject to the approval of the President in order that if such approval is withheld by the President within the period permitted for the ratification of such resolution, the approval shall not be deemed to have expired.

(h) Emergent powers of the District of Columbia Council shall be subject to the approval of the President in order that if such approval is withheld by the President within the period permitted for the ratification of such resolution, the approval shall not be deemed to have expired.

(i) Effectiveness of the Home Rule Act shall be subject to the approval of the President in order that if such approval is withheld by the President within the period permitted for the ratification of such resolution, the approval shall not be deemed to have expired.

SECTION-BY-SECTION ANALYSIS

Section 1

(a) *Charter Amending Procedures.*—Amends Section 303(b) of the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act) to require the enactment into law of a joint resolution in order to disapprove an amendment to the charter which has been ratified by the registered qualified electors. Provides that if such a joint resolution is passed by Congress and sent to the President within the existing 35 calendar day time period permitted for such action, but signed into law after the expiration of such time period, the proposed charter amendment shall be deemed repealed as of the date such resolution becomes law.

(b) *Limitations on the Council.*—Amends Section 602(c)(1) of the Home Rule Act to require the enactment into law of a joint resolution in order to disapprove routine acts of the Council. Provides that if such joint resolution is passed by Congress and sent to the President within the existing 30 calendar day period (exclusive of certain specified days) provided such action, but signed into law after the expiration of such time period, the proposed act of the council shall be deemed repealed as of the date such resolution becomes law.

(c) *Limitations on the Council.*—Technical amendment to Section 602(c)(1) of the Home Rule Act which changes the word "concurrent" to "joint".

(d) *Limitations on the Council.*—Amends Section 602(c)(2) of the Home Rule Act to require the enactment into law of a joint resolution in order to disapprove an act of the Council codified in titles 22, 23 or 24 of the District of Columbia Code. Provides that if such joint resolution is passed by Congress and sent to the President within the existing 30-day period provided for such action, but signed into law after the expiration of such time period, the proposed act of the Council shall be deemed repealed as of the date such resolution becomes law.

(e) *Limitations on the Council.*—Technical amendment to Section 602(c)(2) of the Home Rule Act which clarifies the requirement for joint resolutions of disapproval rather than simple resolutions with respect to acts of the Council codified in titles 22, 23 or 24 of the District of Columbia Code.

(f) *Congressional Action on Certain Matters.*—Amends Section 604(b) of the Home Rule Act by substituting the word "joint" for "concurrent" in the existing language outlining the procedures by which resolutions of disapproval are considered by Congress.

(g) *Emergency Control of Police.*—Amends Section 740 (b) and (c) of the Home Rule Act to require a joint resolution of Congress in order to terminate the existence of a state of emergency under which the President of the United States is empowered to require the use of the Metropolitan Police force for Federal purposes.

(h) *Emergency Control of Police.*—Amends Section 740(d) of the Home Rule Act to require enactment of a joint resolution in order to permit emergency use of local police by the President for a period in excess of 30 days.

(i) *Effective Dates.*—Provides that the amendments made by Section 1 of the bill shall apply to laws passed by the Council of the

District of Columbia after the date of enactment of bill, and provides that all laws passed by the Council prior to the date of enactment of the bill are deemed valid. "Deemed valid" is interpreted as meaning that the Congress intends all laws which were enacted by the Council of the District of Columbia and which became effective prior to the effective date of H.R. 3932 are ratified by the Congress.

Section 2

This section of the bill adds a severability clause to the Home Rule Act as a new Section 762.

Section 3

Section 3 amends Section 164(a)(3) of the District of Columbia Retirement Reform Act by requiring enactment of a joint resolution in order for Congress to reject an annual report of the District of Columbia Retirement Board and exercise existing options to correct or resubmit any such report found deficient.

COMMITTEE VOTE

The Committee on September 28, 1983, approved H.R. 3932 by a recorded vote of 9 ayes, 1 nay, and 1 abstention, a quorum being present, and ordered the bill reported to the House.

STATEMENTS REQUIRED BY RULE XI(1)(3) OF HOUSE RULES

OVERSIGHT FINDINGS AND RECOMMENDATIONS

The committee's oversight findings with respect to the matters with which the legislation is concerned remain as a part of its continuing congressional oversight required by the Constitution and specifically provided for in the Home Rule Act (sections 601, 602, 604, and 731 of Public Law 93-198).

COMMITTEE ON GOVERNMENT OPERATIONS SUMMARY

No oversight findings and recommendations have been received which relate to this measure from the Committee on Government Operations under clause 2(b)(2) of rule X.

INFLATIONARY IMPACT

The bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

BUDGET AUTHORITY

This legislation for the District of Columbia creates no new budget authority or tax expenditure by the Federal Government. Therefore, a statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974 is not necessary.

Hon. RONALD
Chairman, C
House of Rep.

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ESTIMATED COST OF LEGISLATION

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 28, 1983.

Hon. RONALD V. DELLUMS,
Chairman, Committee on the District of Columbia,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 3932, a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes, as ordered reported by the House Committee on the District of Columbia, September 28, 1983. This bill contains technical amendments to the District of Columbia Home Rule Act (Public Law 93-198), which revise the procedures for Congressional review of actions by the District government to conform to the recent Supreme Court decision striking down the legislative veto.

It is expected that no cost to federal, state, or local governments would be incurred as a result of enactment of this bill.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director*.

AGENCY REPORTS

SIDLEY & AUSTIN,
Washington, D.C., September 27, 1983.

Hon. ALPHONSE G. HILL,
Deputy Mayor for Finance,
Washington, D.C.

DEAR MR. HILL: This letter will confirm our firm's advice as co-bond counsel to the District of Columbia with regard to H.R. 3932 and S. 1858 which are technical amendment bills pertaining to the District's Home Rule Act.

We have previously advised the District that we believe recent decisions of the United States Supreme Court have caused considerable doubt as to the constitutionality of the Congressional veto provisions contained in the Home Rule Act. While it is our view that if the Congressional veto provisions in the Home Rule Act were held invalid they also would be found severable from the remainder of the Home Rule Act, we also believe that an ultimate judicial determination on the severability issue cannot be predicted with sufficient certainty to enable us to render an unqualified opinion on the validity of the District's contractual debt obligations in a bond or note issuance.

In our opinion, H.R. 3932 and S. 1858, as introduced in the House of Representatives and in the Senate, respectively, both of which were reviewed by us prior to introduction, would eliminate the legal uncertainty caused by the recent Supreme Court decisions on Congressional veto provisions. Enactment of this legislation in the

form introduced would enable us to deliver unqualified opinions with respect to the validity of the District's debt obligations.

Very truly yours,

JAMES W. DYKE, JR.
MARTIN F. ROBINSON.

CHAPMAN, NORWIND & VAUGHTERS,
Washington, D.C., September 27, 1983.

Hon. ALPHONSE G. HILL,
Deputy Mayor for Finance,
Washington, D.C.

DEAR MR. HILL: As co-bond counsel to the District of Columbia, we have reviewed the attached letter to you dated September 27, 1983, from our co-bond counsel, Sidley and Austin, pertaining to S. 1858 and H.R. 3932 and are familiar with the matters discussed therein.

This will also confirm that we concur in the conclusions set forth therein.

Very truly yours,

CLINTON W. CHAPMAN.

Attachment.

KUTAK ROCK & HUIE,
Washington, D.C.,

LONG, PETERSON & ZIMMERMAN,
Washington, D.C., September 27, 1983.

Re District of Columbia Housing Finance Agency Single Family
Mortgage Revenue Bonds.

Ms. Carolyn Oakley,
Executive Director,
District of Columbia Housing Finance Agency,
Washington, D.C.

DEAR CAROLYN: You have asked that we review the provisions of S.M. 1858 concerning amendments to the Self-Government and Governmental Reorganization Act proposed by Senator Mathias. We have reviewed those amendments and have concluded that no constitutional problem would exist with respect to obligations issued pursuant to an act of the Council of the District of Columbia subsequent to the effective date of the amendments. As to obligations issued by the District of Columbia or its agencies based upon an act of the Council of the District of Columbia enacted prior to the effective date of the amendments, we have reviewed subparagraph (j) of S.M. 1858 to determine whether we can reach the same conclusion.

Subparagraph (j) provides that all laws enacted by the Council of the District of Columbia prior to the date of enactment of the amendments "are hereby deemed valid . . ." Although not entirely clear from the words of the amendments, we believe that the phrase "deemed valid" should be interpreted as meaning that the Congress intends all laws which were enacted by the Council of the District of Columbia and which became effective prior to the effective date of S.M. 1858 are ratified by the Congress. It would be ap-

propriate to S.M. 1858 in

"The amendment the legislation the Council of the District of Columbia prior to the effective date of the amendments. As to obligations issued by the District of Columbia or its agencies based upon an act of the Council of the District of Columbia enacted prior to the effective date of the amendments, we have reviewed subparagraph (j) of S.M. 1858 to determine whether we can reach the same conclusion."

If legislative staff report a final approval of the District of Columbia's debt obligations, the effective date of S.M. 1858 is

Very truly

CHANGES

In compliance with the House of Representatives as reported, a copy of the existing law is enclosed.

DISTRICT OF COLUMBIA

*

TITLE III—
POWER

*

SEC. 303. (a) The provisions of law (a), and part of the Council of the District of Columbia's electors of the District of Columbia. The Speaker of the House of Representatives and the Senate or the District of Columbia was ratified by the Council of the District of Columbia thereon in such manner as may be determined by the Council of the District of Columbia.

(b) An act of the Council of the District of Columbia which is a qualified election day (or any other day) which either is or is not an amendment to the District of Columbia's debt obligations, the effective date of S.M. 1858 is

appropriate to have this reflected in the staff report with respect to S.M. 1858 in language similar to the following:

"The amendment contained in subsection (j) is intended to evidence the legislative intent that all laws which were enacted by the Council of the District of Columbia and which became effective prior to the effective date of S.M. 1858 shall be deemed to have been presented to the Congress for review and not disapproved by the Congress under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act subsequent to the effective date of S.M. 1858, and such laws shall remain in effect."

If legislative history similar to the foregoing were included in the staff report concerning S.M. 1858, we would be able to render our final approving opinion with respect to the issuance of bonds by the District of Columbia Housing Finance Agency after the effective date of S.M. 1858.

Very truly yours,

BRANT BABER.
CARL HORTON.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT

* * * * *

TITLE III—DISTRICT CHARTER PREAMBLE, LEGISLATIVE POWER, AND CHARTER AMENDING PROCEDURE

* * * * *

CHARTER AMENDING PROCEDURE

SEC. 303. (a) The charter set forth in title IV (including any provision of law amended by such title), except sections 401(a) and 421 (a), and part C of such title, may be amended by an act passed by the Council and ratified by a majority of the registered qualified electors of the District voting in the referendum held for such ratification. The Chairman of the Council shall submit all such acts to the Speaker of the House of Representatives and the President of the Senate on the day the Board of Elections certifies that such act was ratified by a majority of the registered qualified electors voting thereon in such referendum.

[(b) An amendment to the charter ratified by the registered qualified electors shall take effect only if within thirty-five calendar days (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) of the date such amendment was submitted to the Congress both Houses of Con-

gress adopt a concurrent resolution, according to the procedures specified in section 604 of this Act, approving such amendment.】

(b) An amendment to the charter ratified by the registered qualified electors shall take effect upon the expiration of the thirty-five-calendar-day period (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) following the date such amendment was submitted to the Congress, or upon the date prescribed by such amendment, whichever is later, unless, during such thirty-five-day period, there has been enacted into law a joint resolution, in accordance with the procedures specified in section 604 of this Act, disapproving such amendment. In any case in which any such joint resolution disapproving such an amendment has, within such thirty-five-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such thirty-five-day period, shall be deemed to have repealed such amendment, as of the date such resolution becomes law.

* * * * *

TITLE VI—RESERVATION OF CONGRESSIONAL AUTHORITY

* * * * *

LIMITATIONS ON THE COUNCIL

SEC. 602. (a) * * *

* * * * *

(c)(1) Except acts of the Council which are submitted to the President in accordance with the Budget and Accounting Act, 1921, any act which the Council determines according to section 412(a), should take effect immediately because of emergency circumstances, and acts proposing amendments to title IV of this Act and except as provided in section 462(c) and section 472(d)(1), the Chairman of the Council shall transmit to the Speaker of the House of Representatives, and the President of the Senate a copy of each act passed by the Council and signed by the Mayor, or vetoed by the Mayor and repassed by two thirds of the Council present and voting, each act passed by the Council and allowed to become effective by the Mayor without his signature, and each initiated act and act subject to referendum which has been ratified by a majority of the registered qualified electors voting on the initiative or referendum. 【Except as provided in paragraph (2), no such act shall take effect until the end of the 30-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate and then only if during such 30-day period both Houses of Congress do not adopt a concurrent resolution disapproving such act.】 Except as provided in paragraph (2), such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because

of an adjournment of the House of Representatives and the Senate, there shall be deemed to have been enacted into law a joint resolution disapproving such act, as of the date such resolution becomes law. 【concurrent】 paragraph.

(2) In the case of any act passed by the Council during the period beginning on the day such act is transmitted to the Speaker of the House of Representatives and the President of the Senate and then only if during such 30-day period both Houses of Congress do not adopt a concurrent resolution disapproving such act, such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate and then only if during such 30-day period both Houses of Congress do not adopt a concurrent resolution disapproving such act, as of the date such resolution becomes law.

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(2) In the case of any such act transmitted by the Chairman with respect to any Act codified in titles 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 30-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate [only if during such 30-day period one House of Congress does not adopt a resolution disapproving such act.] unless, during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law. The provisions of section 604, relating to an expedited procedure for consideration of joint resolutions, shall apply to a [simple] joint resolution disapproving such act as specified in this paragraph.

CONGRESSIONAL ACTION ON CERTAIN DISTRICT MATTERS

SEC. 604. (a) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purpose of this section, "resolution" means only a [concurrent] joint resolution, the matter after the resolving clause of which is as follows: "That the ——— approves/disapproves of the action of the District of Columbia Council described as follows: ———.", the blank spaces therein being appropriately filled, and either approval or disapproval being appropriately

indicated; but does not include a resolution which specifies more than one action.

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TITLE VII—REFERENDUM; SUCCESSION IN GOVERNMENT;
TEMPORARY PROVISIONS; MISCELLANEOUS; AMEND-
MENTS TO DISTRICT OF COLUMBIA ELECTION ACT;
RULES OF CONSTRUCTION; AND EFFECTIVE DATES

PART D—MISCELLANEOUS

EMERGENCY CONTROL OF POLICE

SEC. 740. (a) Notwithstanding any other provision of law, whenever the President of the United States determines that special conditions of an emergency nature exist which require the use of the Metropolitan Police force for Federal purposes, he may direct the Mayor to provide him, and the Mayor shall provide, such services of the Metropolitan Police force as the President may deem necessary and appropriate. In no case, however, shall such services made available pursuant to any such direction under this subsection extend for a period in excess of forty-eight hours unless the President has, prior to the expiration of such period, notified the Chairman and ranking minority Members of the Committee on the District of Columbia of the Senate and the House of Representatives, in writing, as to the reason for such direction and the period of time during which the need for such services is likely to continue.

(b) Subject to the provisions of subsection (c) of this section, such services made available in accordance with subsection (a) of this section shall terminate upon the end of such emergency, the expiration of a period of thirty days following the date on which such services are first made available, or the adoption of a [resolution by either the Senate or the House of Representatives] *joint resolution by the Congress* providing for such termination, whichever first occurs.

(c) Notwithstanding the foregoing provisions of this section, in any case in which such services are made available in accordance with the provisions of subsection (a) of this section during any period of an adjournment of the Congress sine die, such services shall terminate upon the end of the emergency, the expiration of the thirty-day period following the date on which Congress first convenes following such adjournment, or the adoption of a [resolution by either the Senate or the House of Representatives] *joint resolution by the Congress* providing for such termination, whichever first occurs.

(d) Except to the extent provided for in subsection (c) of this section, no such services made available pursuant to the direction of the President pursuant to subsection (a) of this section shall extend for any period in excess of thirty days, unless the Senate and the

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PART F—RULES OF CONSTRUCTION

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SEVERABILITY

SEC. 762. If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

* * * * *

SECTION 164 OF THE DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) * * *

* * * * *

[(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

[(i) that such filing is incomplete for purposes of this part;

or

[(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

[(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

[(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

[(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

[(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days

of its submission, either House of Congress adopts a resolution disapproving such filing.】

(3)(A) The Congress may reject any filing under this section within thirty days of such filing by enacting a joint resolution stating that the Congress has determined—

- (i) that such filing is incomplete for purposes of this part; or
- (ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Congress rejects a filing under subparagraph (A) and if either a revised filing is not submitted within forty-five days after the enactment under subparagraph (A) rejecting the initial filing or such revised filing is rejected by the Congress by enactment of a joint resolution within thirty days after submission of the revised filing, then the Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

- (i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.
- (ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, the Congress enacts a joint resolution disapproving such filing.

* * * * *

98TH CONGRESS
1ST SESSION

H. R. 3932

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, OCTOBER 3), 1983

Received; read twice and referred to the Committee on Governmental Affairs

AN ACT

To amend the District of Columbia Self-Government and Governmental Reorganization Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) section 303(b) of the District of Columbia Self-Gov-
4 ernment and Governmental Reorganization Act is amended
5 to read as follows:

6 “(b) An amendment to the charter ratified by the regis-
7 tered qualified electors shall take effect upon the expiration of
8 the thirty-five-calendar-day period (excluding Saturdays,
9 Sundays, holidays, and days on which either House of Con-
10 gress is not in session) following the date such amendment

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Message:

HOME RULE ACT AMENDMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY
AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1858

TO AMEND THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND
GOVERNMENTAL REORGANIZATION ACT, AND FOR OTHER PURPOSES

SEPTEMBER 28, 1983

Printed for the use of the Committee on Governmental Affairs

