ANTHONY A. WILLIAMS
MAYOR

May 11, 2001

The Honorable Linda W. Cropp
Chairman
Council of the District of Columbia
441 4th Street, N.W., Suite 704
Washington, D.C. 20001

Dear Chairman Cropp:

Today I am transmitting the enclosed bill to establish an Office of Administrative Hearings as an independent administrative adjudication agency for the District of Columbia. I request that you introduce this bill for consideration by the Council of the District of Columbia.

The bill is drawn from reform legislation enacted in approximately 23 states, including Maryland, and in the cities of New York and Chicago, and builds on experience gained over the last year and a half from a pilot program in adjudication reform that has been operating successfully within the Department of Health. The bill's purpose is to improve the quality of administrative adjudication in the District thereby improving stakeholders' confidence in the hearing process and resulting in decisions that are more likely to withstand appeal. This, in turn, will encourage broad voluntary compliance with our regulations concerning public health and safety, as potential violators become aware that prompt and efficient hearings will take place whenever an agency alleges that a violation has occurred.

The bill consolidates within a new independent agency the responsibility to docket, to hear and to decide administrative adjudicative proceedings. Those proceedings include the adjudication of alleged civil infractions (*e.g.*, violations of the Department of Health's rules governing day care centers or group homes for the mentally retarded) and appeals from an agency's denial of licenses or benefits (*e.g.*, the Department of Human Services' denial or termination of Medicaid benefits or its determination of appropriate levels of care for Medicaid recipients).

At present, hearings on such matters are conducted by administrative judges or hearing examiners employed by the same agency whose action is under review. This can result in a perception that the outcome of the hearing is unduly influenced by the agency. The administrative hearing process in the District also can be subject to significant delays, both because an agency may not be motivated to provide a prompt hearing to those who are

challenging its actions and because the agency hearing functions have been managed inefficiently and without good public accountability. The result has been the apparent, if not the actual, denial of our citizens' fundamental constitutional rights to due process established by the Supreme Court in cases such as *Mathews v. Eldridge*, 424 U.S. 319 (1976) and *Goldberg v. Kelly*, 397 U.S. 254 (1970).

This bill will create an independent agency – the Office of Administrative Hearings – whose sole function will be to provide prompt, fair, efficient and impartial hearings through a professional corps of qualified administrative law judges. Initially, at the start of FY 2003, the bill will consolidate the administrative adjudication functions of the Department of Health, the Department of Human Services, and the Board of Appeals and Review. The new agency also will have immediate jurisdiction of new cases filed with the Rental Housing Division of the Department of Consumer and Regulatory Affairs, and cases arising under the Youth Residential Facilities Licensure Act, brought by both the Child and Family Services Agency and the Youth Services Agency. Within 36 months, the bill provides that the new agency will have jurisdiction of tax cases from the Office of Tax and Revenue, illegal dumping cases from the Department of Public Works and all remaining cases from the Department of Consumer and Regulatory Affairs. The bill also provides a structure and the necessary planning for transferring the administrative hearings of other agencies to the Office.

The bill creates the Office and defines the authority, responsibility, qualifications and tenure of its Chief Administrative Law Judge, who directs the Office. It also establishes the qualifications and responsibilities of the independent Administrative Law Judges who will be regularly presiding over the administrative hearings conducted by the Office. The bill defines the Office's jurisdiction and establishes procedures for judicial and agency review of the Office's decisions. The bill also creates an advisory committee with representation from both the legislative and executive branches, as well as from the District of Columbia Bar and the public, to ensure that the Chief Administrative Law Judge receives regular advice and assistance about the Office's operations from its stakeholders.

The bill is based upon Bill 13-865, which was introduced last year and reported out by the Judiciary Committee. In response to concerns expressed by Councilmembers last year, this bill significantly changes the selection process for Administrative Law Judges for the Office. It creates a Commission on Selection and Tenure of Administrative Law Judges, with representatives from each of the three branches of Government. That Commission, rather than the Chief Administrative Law Judge, will be responsible for selecting, re-appointing, and disciplining Administrative Law Judges.

This legislation will improve greatly the administration of justice in the administrative tribunals that directly touch the lives of many of our citizens and will align us with other jurisdictions' best practices. I urge the Council to pass this bill as expeditiously as possible.

Sincerely,

Anthony A. Williams

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Mayor

Enclosure