

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi [signature]
Chief Financial Officer

DATE: March 30, 2004

SUBJECT: Fiscal Impact Statement: "District of Columbia Statehood
Delegation Fund Commission Establishment Act of 2004"

REFERENCE: Bill Number 15-575 as Introduced

CONCLUSION

Implementing the proposed legislation is intended to be revenue/expenditure neutral with no net impact on the District's budget and financial plan. Expenditures by the proposed new Commission will be limited by its assets and resources which the bill establishes outside and independent of the District's General Ledger. **The proposed legislation will cause some operational burdens on the Office of the Chief Financial Officer, the costs of which cannot be determined at this time.**

Federal and local anti-deficiency laws, 31USCA § 1341 (2000) and D.C. Official Code § 47-355.01 *et sequitor* (2003), prohibit District officers and employees from exceeding appropriations in any fiscal year. If unforeseen costs are incurred and should the agency determine that funding is available to absorb the additional costs, then the fiscal impact would be zero. For subsequent years, the additional expenditures must be included in the budget and financial plan of the newly established Commission.

BACKGROUND

The purpose and impact of Title I and Title II of the proposed bill is summarized in the following pages.

Title I - District of Columbia Statehood Delegation Fund Commission Establishment Act of 2004:

The proposed legislation will establish a D.C. Statehood Delegation Fund Commission as a separate incorporated tax-exempt entity in the District of Columbia. The proposed legislation outlines the purpose, design and relationship to the government for the new Commission.

Commission members will serve without compensation but will be entitled to travel expenses, per diem, and other actual, reasonable, and necessary expenses limited to \$1,000 per person per year. All reimbursement for these expenses must be made from the Commission's available funds in its Operating Account.

The proposed legislation establishes an Operational Account or Fund separate and distinct from the District's General Ledger. Funds in the Operational Account will not revert or lapse to the District and will not at any time be transferred or commingled with the District's General Ledger, Cash Management Pool, or other funds or accounts of the District of Columbia. The fund will receive appropriations, contributions, and grants from public and private sources.

The Commission will be required to pay its expenses from the Fund and will be limited to costs for administration, maintenance of its existence and fundraising. The Commission may not expend more than 25 percent of the Fund on an annual basis for these purposes. Quarterly, equal disbursements will be made from the Fund to the Statehood Fund of each member of the D.C. Statehood Delegation. In each quarter, the aggregate of these disbursements is limited to an amount equal to the balance of the Fund after the previously stated expenses. If it is deemed fiscally prudent a lesser amount would be dispersed contingent upon a vote with a successful two-thirds passage.

The proposed legislation requires that the Fund must be audited by the District's Chief Financial Officer on an annual basis. The District CFO will transmit the findings of the audit to the Mayor and the Council of the District of Columbia. Expenses caused by the annual audit will be defrayed by the Fund. In addition, the District CFO will be required to transmit to the Council quarterly reports summarizing all income and expenditures to and from the Fund.

The proposed legislation sets many limitations on the use of funds by the members of the D.C. Statehood Delegation and makes them statutory.

Upon the dissolution and termination of Commission affairs all assets of the Commission shall revert to the District. No asset shall transfer to any other private person or entity.

While employees of the Commission will be exempt from the D.C. Government Comprehensive Merit Personnel Act of 1978¹ the Commission will be required to make a semiannual report to the Mayor, the Council, and the Chairman of the Board of Elections and Ethics. The proposed legislation details the staffing and personnel information to be included in the report.

Legal action arising from any action or failure to act by the Commission shall be represented by the District's Office of Corporation Counsel (OCC).

Title II - District of Columbia Statehood Delegation Fund Tax Check-Off Act of 2004:

The proposed legislation will retire the Public Fund for Drug Prevention and Children at Risk tax return check-off and replace it with a District of Columbia State Delegation Fund tax check-off. Persons filing tax returns with the city will be able to make contributions to the Commission directly by so indicating in the appropriate box when filing their tax return. The contribution amount will be a minimum of \$1 and will be reduced from the individual taxpayer's refund amount.

Funds generated by the new tax check-off will be transferred to the Commission's Operating Account except for amounts needed to offset the costs of administering the tax check-off program. The Office of Tax and Revenue (OTR) will be required to establish timetables and procedures for the transfer. The bill requires that the transfer is made after the reimbursement of associated costs. The tax check-off will be rendered invalid if the income tax liability remains unpaid by the individual.

FINANCIAL PLAN IMPACT

The proposed legislation will have no impact on the District's budget and financial plan because the Fund is established separate and independent of the District's General Ledger. OCC will act as the legal representation of the Commission. The proposed legislation does not provide any additional funding for these purposes. OCC will be required to absorb the costs of all activities required by the proposed legislation from within their existing appropriations. Any additional activity caused by the proposed legislation will be an operational burden on OCC.

The Office of the Chief Financial Officer will need to expend staff and resources to monitor the revenue and expenditure operations associated with the new Fund. Although the costs for the annual audit of this Fund is defrayed by the Fund, the day-to-day general

¹ D.C. Official Code Title 1 § 601.01 *et Sequitor*; effective March 3, 1979.

ledger management of the Operational Accounts and Fund is not. At this time, the OCFO is unable to determine the costs for these operations. The proposed legislation does not provide any additional resources for these purposes, thus causing an operational burden. OTR will make the required modifications to forms for filing individual tax returns during the next cycle with all other modifications required by the District. At this time OTR is unable to determine the costs for processing and accounting for the new check-off. However, the bill would shift the burden of those costs from the District to the Commission.

Articles of incorporation require the payment of a fee for processing. This fee is \$185 for the first filing, and \$250 for subsequent biannual filings. The fee is \$70 for the first processing of a not-for-profit corporation. The Council has indicated that since the fee is required prior to the establishment of the Commission it will be funded by a voluntary outside person or entity.

Upon establishment of the Commission and the Operating Account and Fund it is expected that the D.C. Statehood Delegation Fund Commission, the D.C. Statehood Delegates, and any administration and employees will operate as a not-for-profit enterprise. They will be required to raise the funds they need to expend.