Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Vincent C. Gray** **Chairman, Council of the District of Columbia**
FROM:	**Natwar M. Gandhi** **Chief Financial Officer**
DATE:	SEP 14 2007
SUBJECT:	**Fiscal Impact Statement: "District of Columbia Free Clinic Captive Insurance Company Establishment Act of 2007"**
REFERENCE:	**Draft Approval Resolution – No Number Available**

Conclusion

Funds are not sufficient in the FY 2008-FY 2011 budget and financial plan submitted to Congress on June 7, 2007 to implement the proposed legislation. However, funds in the amount of $8.78 million were made available in the FY 2007 budget and financial plan to establish the proposed free clinic captive insurance company and provide funding for initial professional liability coverage for free non-governmental health care clinics operating in the District of Columbia. The purpose of this bill, in addition to establishing the new company, is to make the unspent FY 2007 funds available in FY 2008, subject to Congressional authorization. No additional local funds (beyond the $8.78 million) are planned or requested; accordingly, there is no fiscal impact in FY 2009-2011.

Background

The proposed legislation is intended to substantially reduce the District's current 100 percent exposure for medical malpractice liability of the Free Clinic Assistance Program to a more limited exposure under an insurance product. To accomplish this goal, the proposed legislation would establish a government monitored and administered captive insurance company to indemnify the free health clinics operating in the District of Columbia.

The proposed District of Columbia Free Clinic Captive Insurance Company (Company) would be regulated by the Department of Insurance, Securities and Banking (DISB) and would be under the administrative control of the District of Columbia Risk Officer, with advice provided by an advisory council. Once established, the company is intended to be self-sustaining but would have authority to seek and receive grant funding from the U.S. government, departments or agencies of the District government, and private foundations. The proposed legislation provides that the Company shall be exempt from any and all District taxes and District government procurement laws.

In addition to establishing the Company, the proposed legislation would establish a non-tax revenue proprietary fund to be known as the Free Clinic Captive Fund (Fund). The proposed Fund would be the source of operating funds for the Company and would be used solely for its financial support. The proposed legislation provides that for FY 2008 the District Chief Financial Officer shall credit to the Fund an amount equal to the unobligated balance of amounts appropriated by section 2055(18) of the Fiscal Year 2007 Budget Support Act of 2006.[1] This amount is currently $8.78 million.

In addition, all revenue generated by the Company is to be credited to the Fund. The proposed legislation provides that funds credited to the Fund and interest earned shall not revert to the District's General Fund and shall be available without fiscal year limitation. Financial resources contained in the Free Clinic Captive Fund must be appropriated in order to be expended.

The Bill also provides that the day-to-day affairs of the Company shall be run by a captive manager who will report to the District Risk Officer. Current plans call for the captive manager position to be outsourced, as well as other experts, such as an actuary, risk manager, attorney, and auditor to service the needs of the Company. The Risk Officer's office will require two new full-time employees, a financial analyst and a staff assistant, whose costs would be borne by the Fund.

Financial Plan Impact

Enactment of the proposed legislation would make $8.78 million of FY 2007 appropriated funds available in FY 2008, subject to Congressional authorization. DISB estimates that approximately $1.5 million will be required for start-up and administrative expenses to establish the new Company. The remainder, approximately $7.28 million, will be deposited in the Free Clinic Captive Fund to support the on-going financial operations of the Company.

The proposed legislation also stipulates that the Company shall receive revenue by establishing premium rates for each health center's medical liability coverage. In

[1] District Council Act 16-476, District Law 16-192; effective March 2, 2007.

establishing such rates, the proposed legislation requires the Company to determine a standard risk rate by considering premium rates charged by other insurers offering medical malpractice liability coverage in similar situations and by using reasonable actuarial techniques.

DISB anticipates that once the Company is established, its financial operations will be self-sustaining as the result of insurance premium revenue and interest income from the Fund. No additional District local funding is planned or requested. Estimates of annual income and expenses of the Company will depend on risk rates and premium rates that are yet to be determined.

Federal and District anti-deficiency laws[2] prohibit District officers and employees from exceeding agency appropriations in any fiscal year. Financial resources contained in the Fund must be appropriated for expenditure purposes.

[2] 31 USCA § 1341 (2000) and D.C. Official Code § 47-355.01 *et sequitur* (2003).