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:	**April 14, 2010**
SUBJECT:	**Fiscal Impact Statement – "District Job Growth Incentive Act of 2010"**
REFERENCE:	**Bill Number 18-658, As Introduced**

Conclusion

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. The proposed legislation would not have an impact in FY 2010 but would reduce corporate franchise tax collections by approximately $1.3 million in the FY 2010 through FY 2013 financial plan period.

The estimated fiscal impact relies on a set of assumptions about the intent of the legislation. These assumptions are outlined in the Financial Plan Impact section of this fiscal impact statement.

Background

The proposed legislation would give the Mayor the discretion to allow for income tax years starting on or after January 1, 2010, but prior to January 1, 2015 an annual job tax credit, which would be applied to the franchise taxes,[1] to any trade or business that meets certain requirements.

To be eligible for the credit, over the credit period (a period of up to 60 consecutive months) the project would need to:

1. Bring a net job growth of at least 10 new jobs to the District with an average yearly wage of at least 120 percent of the average yearly wage of residents of the District[2];
2. Increase income tax and payroll revenue for the District;

[1] Enumerated in D.C. Official Code §§ 47.1807, *et. seq.*, and 47.1808, *et. seq.*

3. Result in the retention of any new positions proposed by the project for at least one year; and
4. Be approved by the Mayor only if the project would not occur without the credit.

The legislation would allow a maximum credit of up to 50 percent of FICA taxes (Social Security and Medicare FICA)[3] for every "estimated" new employee added during the credit period, as long as at least 10 jobs were added annually and them the criteria described above. The credit annually would be calculated as 50 percent of FICA taxes for every actual new employee added that year. The credit would be applied to the total franchise taxes owed by the business. The credit would not be refundable, but any amount in excess could be carried for a period not to exceed ten years.

To apply for the credit, the trade or business would be required to submit an application[4] to the Mayor before the project commences. The Mayor would then be required to review each application and approve the maximum credit amount allowed.

By March 1 of the calendar year after the commencement of the project, and each March 1 of any calendar year following a year of the credit period, a trade or business that received approval would be required to submit an annual request, with the appropriate documentation, for a credit certificate to the Mayor. The Mayor would then have to annually review the submitted materials and issue a credit certificate for the relevant year. This credit certificate would be submitted by the trade or business to the Chief Financial Officer with the trade or business's income tax return.

The Mayor would also be required to present an annual report to the Council with information on the approvals granted and credit certificates issued, including the names of the recipients of the credits, the credit amounts claimed, and the total net job growth.

Financial Plan Impact

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. The proposed legislation would not have an impact in FY 2010 but would reduce corporate franchise tax collections by approximately $1.3 million in the FY 2010 through FY 2013 financial plan period.

Estimated Fiscal Impact: FY 2010 – FY 2013					
	FY 2010	**FY 2011**	**FY 2012**	**FY 2013**	**Four Year Total**
Estimated Credit Amount	$0	$157,857	$399,378	$721,407	**$1,278,642**

Table Assumptions:

- 10 new companies per year receive the credit.

[3] As detailed in the Federal Insurance Contributions Act, 26 U.S.C. sec. 3111 (a) and (b). Note that this section only refers to the employer share so that the credit is 50 percent of the employer's share only.

[4] The applicant would need to provide: 1) a detailed description of the project; 2) an identification of the specific jobs that will be created and the anticipated salary range for each job; and 3) documentation to demonstrate that without the credit, the project would not occur in the District.

- Each company adds 10 employees the first year and five each year after.
- Growth for the average yearly wage is 2 percent.
- Average yearly wage for DC residents derived from Bureau of Economic Analysis and BLS data.
- Only used incorporated businesses.

It is important to note that this is the fiscal impact of only the credit and it does not include any costs for administering this program. At this time, it is not clear which agency would be responsible for the certification process and thus, it is not possible to provide an estimate for the associated costs.

It is also important to note that the credit would continue to have an impact beyond the four year financial plan period as any remaining credit amount could be carried forward for 10 years. This impact would continue to grow larger until it reached $2.4 million in FY 2019. From FY 2015 through FY 2024, the cumulative impact would be $18.3 million.

OCFO's Interpretation of the Proposed Legislation

The language of certain provisions of the proposed legislations lacks clarity. As a result, the interpretation could differ greatly and so could the resulting fiscal impact. To ensure that the OCFO's interpretation of the bill is clear, the below details the general assumptions made by the OCFO:

- The proposed legislation would allow a maximum credit of up to 50 percent of FICA taxes for every new employee added during the credit period so long as these jobs were held by DC residents and the business added at least 10 jobs. It is not clear from the language in the bill if the 10 job requirement is an annual constraint or a target to be reached over the credit period. **The OCFO assumes that the 10 job requirement is over the entire credit period.**
- The credit annually is calculated as 50 percent of FICA taxes for every new employee added that year (Sec. 203(2)). It is not clear if the new jobs created in year 1 will continue to yield credits in years 2, 3 and so on. **The OCFO assumes that the jobs created in year 1 would continue to yield credits over the credit period.**
- The legislation states that the credit certificate is to be submitted by the business with its income tax return for the tax year that includes December 31 of the calendar year for which the credit certificate is issued (Sec. 204 (5)). **Based on this language the OCFO assumes that the credit would not have an impact until FY 2011.**
- The Office of Revenue Analysis' revenue estimates already incorporate some job growth in the District. The latest forecast is that the District resident job growth will be about 25,000 by the end of 2015 (although not all will be jobs at 120 percent of the average wages of DC residents, as required by the bill). There is no indication in the legislation that the "income tax and payroll revenue" increase requirement in Section 202 (1) B of the legislation will consider this baseline growth. **The OCFO assumes that this credit would not change the forecast of job growth for the District.**
- The legislation does not define key economic sectors for the District of Columbia. **Therefore the OCFO's calculations are based on an average for all sectors.**