

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Kwame R. Brown
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: June 14, 2011

SUBJECT: Fiscal Impact Statement - "Fiscal Year 2012 Budget Support Act of 2011"

REFERENCE: B19-203, amendment in the Nature of a Substitute dated June 14, 2011

Conclusion

Funds are sufficient in the proposed FY 2012 through FY 2015 budget and financial plan to implement the proposed Fiscal Year 2012 Budget Support Act of 2011. The proposed FY 2012 through FY 2015 budget and financial plan accounts for the expenditure plan described in the subtitles included in the proposed legislation.

The proposed legislation implements the FY 2012 through FY 2015 budget and financial plan as proposed by the Mayor of the District of Columbia. The combined initiatives in the Fiscal Year 2012 Budget Support Act of 2011 provide sufficient funds to balance the estimated expenditures of \$5.54 billion¹ in the proposed General Fund FY 2012 budget and financial plan.

Subtitle VII (P) of the proposed legislation, *Contingency for Additional Estimated Revenue Act of 2011*, would automatically trigger various appropriation increases and revenue reductions, based on the second and third quarter revised revenue estimates. Such contingency budgeting, while permissible under current law, could limit budget flexibility in the current economic environment, which remains uncertain: growth in the national economy has slowed recently, suggesting that the perceived strong growth in revenues shown in recent cash reports may not continue into FY 2012.

Because it is contingent on availability of future revenues, this subsection is not deemed a part of the funding certification.

¹ This figure excludes transfers to Enterprise Funds and the cost of Other Post Employment Benefits (OPEB) for FY 2012. Planned use of local funds for FY 2012 including transfers and OPEB equal \$6.35 billion.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Subtitle I(C) of the proposed legislation, *Department of General Services Establishment Act of 2011*, establishes the Department of General Services by combining various agencies and functions across the District Government. The budget (and FTE) transfers of all the components that would comprise the new Department are incorporated into the FY 2012 Budget. However, the Office of Revenue Analysis did not have sufficient time or the information necessary to assess fully the fiscal implications of the proposal, including implementation costs and costs of new functions this new agency might undertake.

The proposed legislation, the "Fiscal Year 2012 Budget Support Act of 2011," is the legislative vehicle for adopting statutory changes needed to implement the Mayor's proposed budget for the FY 2012 through FY 2015 budget and financial plan period. The purpose and the impact of each subtitle are summarized in the following pages.

Table of Contents

TITLE I – GOVERNMENT DIRECTION AND SUPPORT 6

- Subtitle (I)(A) – Bonus and Special Pay Limitation Act of 2011 6
- Subtitle (I)(B) – Digital Inclusion Grant-making Amendment Act of 2011 6
- Subtitle (I)(C) – Department of General Services Establishment Act of 2011 7
- Subtitle (I)(D) – Office of Employee Appeals Mandatory Mediation Amendment Act of 2011 11
- Subtitle (I)(E) – Police and Firefighter Post-Retirement Health Benefits Clarification Amendment Act of 2011 11
- Subtitle (I)(F) – OIG Auditing Reform Amendment Act of 2011 12
- Subtitle (I)(G) – Council Technology Projects Fund Establishment Act of 2011 12
- Subtitle (I)(H) – Disability Compensation Program Amendment Act of 2011 13

TITLE II– ECONOMIC DEVELOPMENT AND REGULATION 14

- Subtitle (II)(A) – Housing Business License Rental Unit Fee Clarification Amendment Act of 2011 14
- Subtitle (II)(B) –Historic Preservation Fee Authorization Clarification Act of 2011 14
- Subtitle (II)(C) –Neighborhood Investment Fund Amendment Act of 2011 15
- Subtitle (II)(D) –Rent Supplement Prioritization and Funding Act of 2011 16
- Subtitle (II)(E) –Affordable Housing Annual Reporting Amendment Act of 2011 17
- Subtitle (II)(F) –Comprehensive Housing Strategy Amendment Act of 2011 17
- Subtitle (II)(G) –Summer Youth Employment Compensation Amendment Act of 2011 18
- Subtitle (II) (H) - Office of the Tenant Advocate Establishment Amendment Act of 2011 18
- Subtitle (II) (I) - Public Service Commission Amendment Act of 2011 19

TITLE III- PUBLIC SAFETY AND JUSTICE 20

- Subtitle (III)(A) – Access to Justice Initiative Amendment Act of 2011 20
- Subtitle (III)(B) – FEMS Overtime Limitation Amendment Act of 2011 21
- Subtitle (III)(C) – Office of the Deputy Mayor for Public Safety and Justice Establishment Act 22
- Subtitle (III)(D) – Criminal Code Reform Extension Amendment Act of 2011 23
- Subtitle (III)(E) – National Guard Morale Welfare and Recreation DCNG Youth Challenge Participant Support Fund Establishment Amendment Act of 2011 24
- Subtitle (III)(F) – E-911 Fund Fixed Costs Amendment Act of 2011 24

TITLE IV – PUBLIC EDUCATION 26

- Subtitle (IV)(A) – Funding for Public Schools and Public Charter Schools Amendment Act of 2011 26
- Subtitle (IV)(B) – Healthy Schools Technical Amendment Act of 2011 31
- Subtitle (IV)(C) – Day Care Policy Amendment Act of 2011 31
- Subtitle (IV)(D) – Charter School Payment Advance Amendment Act of 2011 32
- Subtitle (IV)(E) – Direct Loan Fund for Charter School Improvement Amendment Act of 2011 32
- Subtitle (IV)(F) – Adult Literacy Reporting Act of 2011 33
- Subtitle (IV)(G) – University of the District of Columbia Nonresident Tuition Amendment Act of 2011 34

Subtitle (IV)(H) – Community College of the District of Columbia Plan for Independence Act of 2011	34
TITLE V– HEALTH AND HUMAN SERVICES.....	36
Subtitle (V)(A) – Intellectual Disability Services Medicaid Maximization Reform Amendment Act of 2011.....	36
Subtitle (V)(B) – Office of Asian and Pacific Islander Affairs Grant-Making Authority Amendment Act of 2011.....	37
Subtitle (V)(C) – Temporary Assistance for Needy Families Amendment Act of 2011.....	37
Subtitle (V)(D) – Mental Health Services Eligibility Act of 2011	38
Subtitle (V)(E) – Medical Assistance Program Amendment Act of 2011	38
Subtitle (V)(F) – Families Together Amendment Act of 2011	39
Subtitle (V)(G) – Increase Local Capacity to Serve DYRS Committed Youth Act of 2011.....	40
Subtitle (V)(H) – Child and Family Services Agency Memorandum of Understanding with the Department of Mental Health Act of 2011	41
Subtitle (V)(I) – Child and Family Services Agency Support of the Family Treatment Court Program Act of 2011	41
Subtitle (V)(J) – Interim Disability Assistance Act of 2011	42
Subtitle (V)(K) – Special Events Exemption Amendment Act of 2011	42
Subtitle (V)(L) – Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011	43
.....	43
Title VI – TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT.....	45
Subtitle VI (A) – Department of Motor Vehicles Fee Modification Amendment Act of 2011.....	45
Subtitle (VI)(B) – Steel Plate Fee Amendment Act of 2011.....	45
Subtitle (VI)(C) – District Department of Transportation Advertisement Amendment Act of 2011	46
Subtitle (VI)(D) – Bag Fee Compliance Amendment Act of 2011	46
Subtitle (VI)(E) – Department of Parks and Recreation Revenue Generation Amendment Act of 2011	47
Subtitle (VI)(F) – Department of Transportation Enterprise Fund Amendment Act of 2011	48
.....	48
Subtitle (VI)(G) – Reciprocity Registration Amendment Act of 2011.....	48
Subtitle (VI)(H) – Curbside Parking Protection Amendment Act of 2011.....	49
Subtitle (VI)(I) – Performance Parking Pilot Zone Amendment Act of 2011	49
Subtitle (VI)(J) – Residential Parking Permit Amendment Act of 2011.....	50
TITLE VII– FINANCE AND REVENUE.....	52
Subtitle (VII)(A) – Procedure for Remittance of Hotel Taxes by Online Vendors Act of 2011	52
.....	52
Subtitle (VII)(B) – Prior Fiscal Year Conforming Budget Amendments Act of 2011.....	52
Subtitle (VII)(C) – Non-Departmental Fund Transfer Notification Act of 2011	57
Subtitle (VII)(D) – Lottery Winnings Redemption Amendment Act of 2011.....	57
Subtitle (VII)(E) – First Congregational United Church of Christ Property Tax Abatement Technical Amendment Act of 2011	58
Subtitle (VII)(F) – Real Property Transfer Tax Exemption Act of 2011.....	59
Subtitle (VII)(G) – Tax Revision Commission Reestablishment Act of 2011	59
Subtitle (VII)(H) – Beulah Baptist Church Tax Relief Act of 2011.....	61

Subtitle (VII)(I) – District of Columbia Official Code Title 29 (Business Organizations) Implementation Amendment Act of 2011	63
Subtitle (VII)(J) – SOME, Inc. and Affiliates Transfer and Recordation Exemption and Equitable Tax Relief Amendment Act of 2011	65
Subtitle (VII)(K) – Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Amendment Act of 2011.....	66
Subtitle (VII)(L) Allen Chapel A.M.E. Senior Residential Rental Project Tax Relief Act of 2011	68
Subtitle (VII)(M) – Wayne Place Senior Living Limited Partnership Tax Relief Act of 2011	70
Subtitle (VII)(N) Universal Holiness Church Real Property Tax Relief and Exemption Act of 2011	72
Subtitle (VII)(O) – Exemptions and Abatements Information Requirements Act of 2011	73
Subtitle (VII)(P) Contingency for Additional Estimated Revenue Act of 2011	74
TITLE VIII–REVENUE ENHANCEMENTS.....	76
Subtitle (VIII)(A) – Combined Reporting Act of 2011	76
Subtitle (VIII)(B) – Itemized Deduction Limitation Act of 2011	77
Subtitle (VIII)(C) – The Apportionment of Business Income Act of 2011.....	78
Subtitle (VIII)(D) – Sales Tax Act of 2011.....	79
Subtitle (VIII)(E) – Parking Tax Enhancement Act of 2011	80
Subtitle (VIII)(F) – Cigarette Sales Tax Enhancement Act of 2011	80
Subtitle (VIII)(G) – Tax Penalty Safe Harbor Act of 2011	81
Subtitle (VIII)(H) – Minimum Corporate and Unincorporated Franchise Tax Payable Act of 2011	82
Subtitle (VIII)(I) – Bank Account Tax Offset Act of 2011	83
Subtitle (VIII)(J) – Standard Deduction Withholding Exclusion Act of 2011.....	83
Subtitle (VIII)(K) – Determination of Calculated Rate for Fiscal Year 2012 Act of 2011.....	85
Subtitle (VIII)(L) – Withholding Tax on Distributions from Retirement Accounts Act of 2011	85
Subtitle (VIII)(M) – Off-premise Alcohol Act of 2011	86
Subtitle (VIII)(N) – Community Benefits Fund Amendment Act of 2011.....	87
Subtitle (VIII)(O) – Opening Hours Act of 2012	87
Subtitle (VIII)(P) – Interest Earned on Out-of-State Bonds Act of 2011.....	89
Subtitle (VIII)(Q) – Internet Sales Tax Act of 2011.....	89
Subtitle (VIII)(R) – District of Columbia Main Street Tax Fairness Act of 2011.....	90
Subtitle (VIII)(S) – Hospital Assessment Amendment Act of 2011	91
TITLE IX– SPECIAL PURPOSE AND DEDICATED REVENUE FUND TRANSFERS	92
TITLE X– BUDGET AND FINANCIAL PLAN FUND CHANGES	101
Subtitle (X)(A) – Fund Balance Undesignation Act of 2011	101
Subtitle (X)(B) – Fiscal Year 2011, 2012 and 2013 Funding Transfer Amendment Act of 2011	102
Subtitle (X)(C) – Special Purpose Fund Transfer Act of 2011	103
TITLE XI– CAPITAL BUDGET AUTHORITY.....	104

TITLE I – GOVERNMENT DIRECTION AND SUPPORT

Subtitle (I)(A) – Bonus and Special Pay Limitation Act of 2011

Background

The proposed subtitle would prohibit the District from awarding special awards pay or bonus pay in fiscal year 2012. Retirement awards, hiring bonuses and additional income allowances for difficult-to-fill positions, agency awards or bonuses funded by private grants or donations, safe driving awards, suggestion or invention awards, and any other award or bonus required by an existing contract or collective bargaining agreement entered into prior to October 1, 2010, are exempted from the requirements of this provision. Additional exemptions include District of Columbia Public Schools teachers eligible for special awards pay and bonus pay.

Financial Impact

The proposed subtitle would prohibit the use of agency resources towards performance-related bonuses. The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (I)(B) – Digital Inclusion Grant-making Amendment Act of 2011

Background

The proposed subtitle would allow² the Office of the Chief Technology Officer (OCTO) to award sub-grants supporting digital inclusion efforts to non-profits established in the District. Such efforts include providing computer literacy training and free or low-cost computers; developing new online content, conducting public outreach on the use, availability, and benefits of computers and the Internet; and other programs aimed to enhance the accessibility, usability, affordability, and perceived value of computers among underserved populations.

Financial Impact

In 2010, OCTO received \$4 million in a federal broadband stimulus grant. Any grants awarded under this authority would be made from the federal broadband stimulus grant money. OCTO expects to award grants to District non-profits in the amount of \$102,000 in FY 2012, \$102,000 in FY 2013, and \$103,806 in FY 2014 for a total of \$307,806 over the four-year financial plan period. The fiscal impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

² By amending the Fiscal Year 1999 Budget Support Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §1-1403).

Subtitle (I)(C) – Department of General Services Establishment Act of 2011

Background

The proposed subtitle would establish the Department of General Services (DGS), a new subordinate agency in the executive branch of the government of the District of Columbia.³ Beginning FY 2012, DGS would be charged with managing the capital improvement and construction program for all District facilities; managing building space operated or leased by the District; administering the employee parking program; maintaining inventory records for tracking and controlling District-owned, controlled, and leased space; acquiring real property for use by the District; proving building services for facilities owned or occupied by the District; disposing of real or personal property; and exercising other acquisition or property disposition authority as delegated by the Mayor.

The main requirements of the proposed subtitle are detailed below.

Organization of DGS

The Mayor would appoint a Director with extensive experience in construction project or real property management. Until then, the City Administrator would be authorized to coordinate and implement the creation of the new agency. Within DGS, there would be six organizational functions.

1. Agency Management – would include the staff and organizational units needed to carry out the overall plan and direction of DGS, including coordination and management for information technology, resource allocation, human resources, procurement, fixed cost forecasting and the administrative functions of DGS.
2. Capital Construction – would implement and oversee the DGS capital improvement program for District government facilities and would execute the capital budget program, which includes the rehabilitation of existing real property facilities and construction of new facilities.
3. Portfolio Management – would coordinate lease administration, allocation of owned and leased properties to District agencies, property acquisition and disposition, and rent collection from entities leasing District-owned or leased property.
4. Facilities Management – would coordinate the day-to-day operations of District-owned properties by maintaining building assets and equipment, performing repairs and non-structural improvements, and providing janitorial, trash, recycling, postal, and engineering services.⁴
5. Contracting and Procurement – would provide services and support in procuring construction, architecture, and engineering services; facilities maintenance and operation services; real estate asset management services; utility contracts; and security services.
6. Protective Services Police Department - would coordinate, manage, and provide the security and law enforcement requirements for District government facilities.

³ By repealing the Office of Property Management Establishment Act of 1998, effective March 26, 1999(D.C. Law 12-175; D.C. Official Code § 10-1001 *et seq.*) and Title VII of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-451 *et seq.*).

⁴ Provided that District of Columbia Public Schools would remain responsible for providing janitorial services at DCPS facilities.

Transfer of personnel, functions, and authority

- The Department of Real Estate Services' (DRES) and the Office of Public Education Facilities Modernization's (OPEFM) functions, authorities, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds would transfer to DGS.
- Capital construction and real property management functions for all District agencies as determined by the Mayor,⁵ including all functions, authorities, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, would transfer to DGS. In FY 2012, this includes the Department of Parks and Recreation (DPR), Municipal Facilities Non-Capital (MFNC), and the Fire and Emergency Medical Services Department (FEMS).
- The Deputy Mayor for Planning and Economic Development's (DMPED) asset management program, including the DC USA Garage, and all functions, authorities, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, would transfer to DGS. For funds that are held in special purpose revenue funds and fund the asset management program, DMPED would enter into a memorandum of understanding with DGS to pay for the asset management program.

Independent Procurement Authority

Once rules are in place, DGS would have independent procurement authority.⁶ Until then, DGS would operate under the District's existing procurement rules and the existing OPEFM procurement rules for public education facilities construction contracts.

DGS would comply with the requirements of the First Source Employment Agreement Act of 1984,⁷ and the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005.⁸

Transition

The City Administrator would be required to submit an implementation plan to the Council by September 1, 2011. The implementation plan must include an organizational chart and a plan for transferring employees with details about how many employees would be required to re-apply for new positions. In addition, the implementation plan must identify redundant positions or functions.

Additional Considerations

DGS would be required to maintain an inventory of all real property assets for each District department, agency, and instrumentality under the executive control of the Mayor. This inventory would be maintained on a centralized automated database and a version of the database would be made available to the public through the internet. DGS would be required to maintain a facilities condition assessment of all District-owned assets on a rolling basis over 5 years. In addition, DGS would be required to give priority to buildings fulfilling or exceeding the LEED-NC 2.2 standard or the LEED-CS 2.0 standard at the silver level to meet the District's facility needs. Finally, DGS would have the authority to direct and manage the modernization of the See Forever Foundation – Evans Campus as funds become available.

⁵ Excluding the District Department of Transportation.

⁶ By amending the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; 58 DCMR 1185D.C. Official Code §2-351.01 *et seq.*) to add the Department of General Services to Section 105(c) on application and exemptions.

⁷ Effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*)

⁸ Effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*)

Financial Impact

The budgetary implications of eliminating DRES and OPEFM to create DGS are incorporated into the proposed FY 2012 through FY 2015 budget and financial plan. Starting FY 2012, relevant funds and personnel authority from individual agency budgets will be transferred into the proposed DGS, allowing for reductions for vacancies as described in the tables below.

Transfer of FTEs to DGS under the proposed Department of General Services Establishment Act of 2011			
	Operating Fund FTEs	Capital Fund FTEs	Total FTEs transferred to DGS
MFNC	242	0	242
DRES	88	27	115
OPEFM	273.75	15.5	289.25
DPR	106.5	4	110.5
FEMS	0	2	2
Total to DGS	710.25	48.5	758.75

Transfer of Funds to DGS under the proposed Department of General Services Establishment Act of 2011, FY 2012 through FY 2015 (\$ million)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
OPERATING BUDGET TRANSFERRED TO DEPARTMENT OF GENERAL SERVICES					
MFNC	\$273.36	\$273.36	\$273.36	\$273.36	\$1,093.43
DRES	\$24.08	\$24.08	\$24.08	\$24.08	\$96.31
OPEFM	\$48.89	\$48.89	\$48.89	\$48.89	\$195.56
DPR	\$10.02	\$10.02	\$10.02	\$10.02	\$40.06
FEMS	\$0.50	\$0.50	\$0.50	\$0.50	\$2.00
Total Operating	\$356.84	\$356.84	\$356.84	\$356.84	\$1,427.36
CAPITAL BUDGET TRANSFERRED TO DEPARTMENT OF GENERAL SERVICES					
MFNC	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
DRES	\$2.97	\$2.97	\$2.97	\$2.97	\$11.87
OPEFM	\$1.59	\$1.59	\$1.59	\$1.59	\$6.37
DPR	\$0.44	\$0.44	\$0.44	\$0.44	\$1.77
FEMS	\$0.23	\$0.23	\$0.23	\$0.23	\$0.92
Total Capital¹	\$5.23	\$5.23	\$5.23	\$5.23	\$20.92
TOTAL TO DGS	\$362.07	\$362.07	\$362.07	\$362.07	\$1,448.29

TABLE NOTE:

¹ The capital transfers into DGS are smaller than the FY 2011 capital allocations for OPEFM. Starting FY 2012, \$267 million in schools- related capital funds would be budgeted under DCPS as the owner agency while \$49 million in OPEFM operating funds would be budgeted under DGS. Going forward for all other agencies, capital funding will be budgeted under the owner agency and only when DGS is involved as the implementing agency will the capital funds be transferred to DGS.

Under the proposed subtitle, in FY 2012, DGS would receive \$356.84 million in operating funds, \$5.23 million in capital funds, and total FTE authority of 758.75. Over the four-year financial plan period, DGS would receive approximately \$1.5 billion from individual agencies in capital and operating funds.

While these budget transfers are incorporated into the proposed FY 2012 through FY 2015 financial plan, it is not known at this time if the budget and financial plan accounts for the full costs of the proposed subtitle. For example, the aforementioned transfers do not make any allowances for the implementation of the proposed subtitle. Additionally, the Office of the Chief Financial Officer does not have enough information to assess fully the costs of all new and existing functions of DGS. It is plausible that some of the new and transferred functions would require additional resources.

The absence of an implementation plan and a full fiscal assessment of the costs associated with the functions of this new agency introduce fiscal risks to the budget and financial plan, some of which are discussed below:

- **Creation of DGS** – To begin the transition so that DGS is operational by October 1, 2011, and to orchestrate successfully the transfer of people and funding, the City Administrator must lead the office until a Director can be hired. At the time of drafting the fiscal impact statement, no formal implementation plan has been made available to OCFO.
- **FTEs: Attrition** - Based on the subtitle, all DRES, MFNC, and OPEFM FTEs, and DPR and FEMS FTEs associated with capital construction and real property management functions would transfer to DGS. However, current budget transfers do not account for the typical turnover of staff and additional funds necessary to implement the transfers. In the past, turnover rates in agency restructurings or transfers have varied between 13 percent and 68 percent.⁹ Should the new agency experience such turnover, DGS must be forced to increase its hiring efforts to eliminate any service risk. The OCFO is aware of no analysis on this issue.
- **FTEs: Transfer or reapply** – Based on District's experience when new agencies are created from existing agencies, it is reasonable to expect that the new agency would require new leadership and structure. During this restructuring, various FTEs could be asked to reapply for their jobs in the new agency. If all current FTEs were not rehired, the District would be responsible for paying unemployment, and when applicable, severance to those employees.¹⁰ Typically, the OCFO would make an assessment of the costs of the restructuring, but since no information is made available at this time, it is not known how the new agency would operate, what the agency management structure would look like, and how the restructuring would affect the overall implementation costs.
- **Office space** – With FTEs from many agencies in locations across the city, logistics of the proposed new agency becomes an important concern. The OCFO expects that there will be an effort to consolidate operations in one space. Should that be the case, there could be

⁹ These include WCCA (2006) with 68 percent, EDRC (Accounting and Budget Department, 2004) with 45 percent, OCFO (Central, 2003) with 59 percent and OPRS (U.S. Treasury Office, 2005) with 13 percent.

¹⁰ Severance payments are up to 13 weeks per DC Municipal Regulations and include fringe benefits for labor contracts, and may include fringe benefits for other contracts, subject to executive approval. In addition, these FTEs would be eligible for 26 weeks of unemployment, to be paid out of the District's Unemployment Compensation Fund.

significant additional costs associated with physically moving office equipment from multiple offices into one office.¹¹

Subtitle (I)(D) – Office of Employee Appeals Mandatory Mediation Amendment Act of 2011

Background

The proposed subtitle would require¹² the Office of Employee Appeals (OEA) to develop a required mediation program for certain adverse action cases. The adverse action cases include removal, a reduction in grade, a suspension of 10 days or more, or placement on enforced leave lasting 10 days or more, and any other appeals deemed appropriate by the hearing examiner.

Financial Impact

The proposed subtitle would require every appeal filed after October 1, 2011, be mediated by OEA. If mediation were successful, the appeal would be dismissed without any further action by OEA. However, if mediation were unsuccessful, the appeal would then be assigned to an administrative judge for processing in the adjudication process. Currently, OEA has a voluntary mediation program and when an appeal is filed, the parties are asked if they would be amenable to mediating the dispute instead of having it go through the adjudication process. All judges at OEA, including attorneys in the General Counsel's office, are certified mediators, and can shift their times into the proposed mandatory mediation program, so the program can be implemented with the planned resources for OEA in the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (I)(E) – Police and Firefighter Post-Retirement Health Benefits Clarification Amendment Act of 2011

Background

The proposed subtitle would clarify¹³ that the District will pay 72 percent of the health benefit premium for former police officers and firefighters injured or killed in the line of duty and their covered family members.

Financial Impact

This technical amendment clarifies that the District will pay 72 percent of the health benefit premium for police officers and firefighters injured or killed in the line of duty and their covered family members. The subtitle is applicable as of October 1, 2011. The impact of the proposed

¹¹ If new space is required, equipment would be estimated to cost \$5,000 per employee for computers, printers and other essentials; office space could cost up to \$12,500 per employee per year.

¹² By amending the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective May 15, 1990 (D.C. Law 8-127; D.C. Official Code § 1-606.06(a)).

¹³ By amending the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-621.09).

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subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (I)(F) – OIG Auditing Reform Amendment Act of 2011

Background

The proposed subtitle would eliminate the requirement for the Office of Inspector General (OIG) to conduct an annual audit of the Antifraud Fund¹⁴ and the Professional Engineers' Fund.¹⁵ Instead, OIG would only be required to conduct an audit of the funds when it deems necessary.

Financial Impact

Eliminating the annual audit requirement of these funds could result in some savings if OIG pays a third party to complete the audit, but the potential savings may be minimal, and cannot be estimated at this time. The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (I)(G) – Council Technology Projects Fund Establishment Act of 2011

Background

The proposed subtitle would establish the Council Technology Projects Fund ("Fund"), a nonlapsing special purpose fund used solely to maintain and upgrade the technology used for the benefit of the Council. The Council's Chief Technology Officer would administer the Fund. All excess money remaining in the operating budget for the Council at the end of each fiscal year, any interest earned from money in the Fund, and any other funds received on behalf of the Fund would be deposited into the Fund.

Financial Impact

Creating the Fund would allow the Council to maintain and upgrade technology used for the benefit of the Council as funding becomes available. The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

¹⁴ By repealing Subsection 820(c) of the District of Columbia Procurement Practices Act of 1985, effective May 8, 1998, (D.C. Law 12-104; D.C. Code § 2-308.20(c)).

¹⁵ By amending the Professional Engineers' Registration Act, approved September 19, 1950(64 Stat. 854, , § 1; D.C. Official Code § 47-2886.13(d)).

Subtitle (I)(H) – Disability Compensation Program Amendment Act of 2011

Background

The proposed subtitle would amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978¹⁶ to require the Mayor to pay a reasonable attorney’s fee in cases where a person utilizes the services of an attorney-at-law in the successful prosecution¹⁷ of his or her disability compensation claim or before any court for review of any actions, award, order, or decisions. Such fees could not exceed 20% of the actual benefit secured and would be approved by the administrative law judge or court that heard the case.

This provision was previously repealed as part of the Fiscal Year 2011 Budget Support Act of 2010¹⁸

Financial Impact

Restoring the provision that the Mayor be required to pay reasonable attorneys’ fees for disability compensation claims would cost approximately \$118,000 in FY 2012 and \$471,000 over the four year financial plan period. The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle I (H) – Disability Compensation Program Amendment Act of 2011, FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Estimated Annual Cost of Attorney’s Fees	\$117,784	\$117,784	\$117,784	\$117,784	\$471,136

¹⁶ Effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.27)

¹⁷ This term is defined as “obtaining an award of compensation that exceeds the amount that was previously awarded, offered, or determined.” This includes a reinstatement or partial reinstatement of benefits which are reduced or terminated.

¹⁸ See subsection (q) of Subtitle (I)(G) – Disability Compensation Amendment Act of 2010.

TITLE II- ECONOMIC DEVELOPMENT AND REGULATION

Subtitle (II)(A) – Housing Business License Rental Unit Fee Clarification Amendment Act of 2011

Background

The proposed subtitle would amend the Rental Housing Act of 1985¹⁹ to require all revenues collected from rental unit fees remain in the Nuisance Abatement Fund (“Abatement Fund”)²⁰ administered by the Department of Consumer and Regulatory Affairs. Currently, a portion of these revenues is transferred into the Office of the Chief Tenant Advocate Rental Accommodations Fee Fund (“Tenant Advocate Fund”), which is administered by the Office of the Tenant Advocate (OTA). Current law requires OTA to use the revenue to pay for a housing provider ombudsman and an Advisory Neighborhood Commission liaison.²¹

Financial Impact

The proposed subtitle would eliminate the transfer of approximately \$109,000 in FY 2012 and approximately \$436,000 over the four-year financial plan from the Abatement Fund to the Tenant Advocate Fund. An annual appropriation from the local fund will replace the fee revenue used by OTA. The impact of the proposed subtitle has been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (II)(B) –Historic Preservation Fee Authorization Clarification Act of 2011

Background

The proposed subtitle would amend the Historic Landmark and Historic District Protection Act of 1978²² to allow all revenues collected from the existing filing and transmittal fees charged for applications to designate a historic landmark or historic district to be deposited into the Historic Landmark-District Protection Fund (“HLP Fund”), a special purpose revenue account. The proposed subtitle would also amend D.C. municipal regulations²³ to codify the existing fee schedule and make it effective as of October 1, 2000.

Financial Impact

The fees codified by the proposed subtitle are all existing fees charged by the Office of Planning for applications to designate a property or place as a historic landmark or district. Therefore, the

¹⁹ Effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §42-354.01(a)).

²⁰ Established pursuant D.C. Official Code §42-3131.01.

²¹ In FY 2011, OTA expected to receive approximately \$1.5 million in revenue from its portion of the fees. (For details, see the Fiscal Year 2011 Budget and Financial Plan, p. B-108).

²² Effective November 16, 2006 (D.C. Law 16-185; D.C. Official Code § 6-1110.01(b)).

²³ 10 DCMR § C 205 (“Filing Fees”).

proposal would not add any new revenue to the General Fund, but redirect revenues from two²⁴ of the seven types of filing fees charged under 10 DCMR § C 205 from the Local General Fund, to the HPL Fund. Thus, the Local General Fund will decrease, and the HPL fund will increase by approximately \$12,000 in FY 2012 and \$48,000 over the four-year financial plan period. The fiscal effect of the subtitle has been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (II)(C) –Neighborhood Investment Fund Amendment Act of 2011

Background

The proposed subtitle amends the Neighborhood Investment Act of 2004 (“Act”)²⁵ to allow funds to be appropriated to the Neighborhood Investment Fund (“NIF”). Current law authorizes the appropriation of 17.4 percent of the annual personal property tax collections to NIF, so long as the amount does not exceed \$10 million annually. The proposed amendment would authorize funds from any source to be deposited into the NIF when appropriated.

The proposed subtitle would also repeal the requirement to establish the non-lapsing “Get D.C. Residents Training for Jobs Now” fund (“Career Technical Training Fund”) and to transfer \$1.1 million annually to the Career Technical Training Fund.

Additionally, the amendment would make the expenditure of NIF funds subject to inclusion in the budget and financial plan.

Finally, the proposed subtitle would transfer the Get D.C. Residents Training for Jobs Now Career Technical Training program to the Office of the State Superintendent for Education (OSSE). OSSE would support all costs associated with the 24-hour vocational education programs at Phelps Architecture, Construction, and Engineering High School, Academy for Construction and Design at Cardozo Senior High School, and the Hospitality Public Charter School at Roosevelt High School, including employing two career technical educators at Cardozo and Phelps.

Financial Impact

Implementation of the proposed subtitle would increase General Local Fund revenue by approximately \$3.2 million in FY 2012 and by \$22.7 million over the four-year financial plan period. This cost savings is a result of the proposal to repeal the requirement that a dedicated amount of personal property tax be set aside for NIF each year and instead authorizes the appropriation of funds for NIF when available.

Repealing the requirement that a Career Technical Training Fund be established and be funded by a \$1.1 million annual transfer from the NIF, and making the expenditure of NIF funds subject to appropriation do not have a negative impact on the budget and financial plan.

²⁴ The two fees are under referred to under § 205.3 under the proposed Subtitle (II)(E) Historic Preservation Fee Authorization Clarification Act of 2011.

²⁵ Effective March 30, 2004 (D.C. Law 15-131; D.C. Official Code § 6-1071).

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Finally, OSSE's appropriations have been increased by \$1.1 million starting FY 2012 to support the Career Technical Training program for which it would be responsible, including the required hiring of two career technical educators at Cardozo and Phelps.

The fiscal effects of these provisions have been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (II)(D) –Rent Supplement Prioritization and Funding Act of 2011

Background

The proposed subtitle would amend the District of Columbia Housing Authority Act of 1999²⁶ to require the D.C. Housing Authority (DCHA) to fill 175 new project-based units that are expected to be completed in fiscal years 2011 and 2012 with existing Housing First program participants.²⁷ DCHA shall mandate that providers of project or sponsor-based housing under the Local Rent Supplement Program (LRSP) to create a preference for families and individuals participating in the Housing First program.

The proposed subtitle would also amend the D.C. Official Code²⁸ to authorize the transfer of an amount not to exceed \$18 million from the Housing Production Trust Fund (HPTF) to the Rent Supplement Fund to be used to fund existing project-based and sponsor-based voucher assistance, tenant-based assistance, and capital-based assistance.²⁹ Monies transferred from the HPTF could not be used for administrative costs.

Neither of these requirements would apply to any future appropriations in FY 2012 if a revised revenue estimate, issued by the OCFO in FY 2012, exceeds the revenue estimate issued by the OCFO on February 28, 2011. The Council's priority funding list described in Subtitle VII(Q) of Fiscal Year 2012 Budget Support Act of 2011 requires \$1.6 million be appropriated to Department of Human Services (DHS) to support the Housing First program, contingent on additional FY 2012 revenues. The subtitle also notes that transfer of funds from the HPTF to the Rent Supplement Fund shall be reduced by an equal amount should the Rent Supplement Fund receive additional appropriations in FY 2012; the reduced transfer of funds is further conditioned as subject to appropriations.

Financial Impact

Transferring 175 Housing First clients from DHS to DCHA's project-based units would not have a negative impact on the proposed budget and financial plan. This proposal would result in a transfer of approximately \$1.6 million³⁰ from DHS to DCHA in fiscal year 2012. It is anticipated that DHS will be able to transfer 175 Housing First clients to new LRSP project-based units by the second quarter of fiscal year 2012.³¹ In addition, any moving costs associated with moving these clients to new

²⁶ Effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code 6-226).

²⁷ Department of Human Services administers the Housing First Program.

²⁸ D.C. Official Code § 42-2802 (b).

²⁹ As described under §§ 6-227, 6-228, and 6-229 of the D.C. Official Code.

³⁰ This estimate assumes all 175 clients can be moved to DCHA's project-based units.

³¹ According to DCHA's pipeline of project-based units, 137 units are expected to become available in the last quarter of fiscal year 2011 and an additional 48 in the second quarter of FY 2012.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

housing units would be covered by the cost savings realized by DHS, since it would no longer provide case management services to these clients.

Additionally, the transfer of \$18 million from the HPTF to the Rent Supplement Fund is included in the proposed FY 2012 through FY 2015 budget and financial plan. Total certified revenue in the HPTF from deed taxes in FY 2012 is approximately \$39 million.

The fiscal effects of these provisions have been incorporated into the FY 2012 through FY 2015 budget and financial plan. These fund transfers would be fully or partially reversed subject to appropriations and contingent on the availability of additional revenue in FY 2012.

Subtitle (II)(E) –Affordable Housing Annual Reporting Amendment Act of 2011

Background

The proposed subtitle would amend the Housing Production Trust Fund Act of 1988³² to change the submission date to the Council of the annual Housing Production Trust Fund Report to April 1st. Current law requires the report to be submitted to the Council 60 days after the close of each fiscal year. The April 1 date would provide the Department of Housing and Community Development with four additional months to complete the report.

Financial Impact

Changing the submission date for annual HPTF report to April 1 would not have an impact on the budget and financial plan.

Subtitle (II)(F) –Comprehensive Housing Strategy Amendment Act of 2011

Background

The Comprehensive Housing Strategy Act of 2003³³ (Act) established a 24-member task force dedicated to developing a comprehensive strategy for addressing affordable housing issues in the District of Columbia. The Act required the task force to present its strategy to the Council no later than 12 months after the Council's confirmation of their nomination. The first report was released on April 5, 2006.

The Act also requires the Mayor to appoint another task force to update the Comprehensive Strategy no later than five years after the initial Task Force presented its recommendation to the Council and the Mayor.³⁴

The proposed subtitle would amend the Act to require the Mayor to submit to the Council for approval no later than 120 days after the effective date of this subtitle an updated Comprehensive

³² Effective April 19, 2002 (D.C. Law 14-114; D.C. Official Code § 42-2803.01)

³³ Effective March 10, 2004 (D.C. Law 15-73; D.C. Official Code § 6-1045)

³⁴ D.C. Official Code § 6-1054

Housing Strategy for the District of Columbia. As part of the updated report, the Mayor would be required to consider the updated recommendations of the new taskforce. In addition, the proposed subtitle requires the Mayor to include a budgetary analysis demonstrating how the Comprehensive Strategy will impact current and future financial plans. This analysis should include the long term plan and the impact on the District's overall affordable housing programs.

Financial Impact

Current law requires the Mayor to update the recommendations made by the initial task force no later than 5 years after the initial report, which was issued on April 5, 2006. Any work performed by District agencies to assist the task force in updating these recommendations must be done within their existing budgets or funds budgeted in future years.

Subtitle (II)(G) –Summer Youth Employment Compensation Amendment Act of 2011

Background

The proposed subtitle would amend the Youth Employment Act of 1979³⁵ to require the summer youth jobs program to provide employment for no less than 10,000 and no more than 21,000 youth between the ages of 14 and 21 on the date of enrollment in the program.

It would also amend the Act to require youth between the ages of 14 and 15 to be compensated at a rate of \$5.25 per hour. Current statute requires all youth to be compensated at a rate equal to the federal minimum wage rate.

Financial Impact

Reducing the compensation rate for youth between the ages of 14 and 15 from \$7.25 to \$5.25 would result in approximately \$550,300 in savings in FY 2012. The impact of the proposed subtitle is incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (II) (H) - Office of the Tenant Advocate Establishment Amendment Act of 2011

Background

The Mayor's FY 2012 Budget Support Act submission proposes a repeal of D.C. Official Code § 42-3403.07 in order to remove the special purpose designation of condominium conversion fees in order to put the fees in the General Fund. However, repealing this section would also remove the authority of the Office of the Tenant Advocate to operate the Emergency Housing Assistance Program. This proposed subtitle would add the necessary authorization for this program to the Independent Office of the Tenant Advocate Establishment Amendment Act of 2006³⁶. Funds would have to be appropriated for the program since it would no longer have a special fund with dedicated revenues.

³⁵ Effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241(a)(1)(A)).

³⁶ Effective November 16, 2006 (D.C. Law 16-181; D.C. Official Code § 42-3531.07(6A)).

Financial Impact

The proposed change would not have an effect on the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (II) (I) - Public Service Commission Amendment Act of 2011

Background

Currently the Public Service Commission (“PSC”) has the authority³⁷ to fine a public utility up to \$10,000 for violation of PSC rules and regulations. This proposed subtitle would authorize the PSC to fine a public utility up to \$100,000 for an offense and provide the PSC the authority to determine the amount of the fine based on the consideration of previous violations, the gravity and duration of the current violation, and the efforts of the utility towards achieving compliance in the face of the current violation.

A Local Exchange Carrier (“LEC”) is currently charged a minimum of \$25,000 in its first year providing service in the District market to cover PSC expenses through the Public Service Commission Agency Fund and the Office of the People's Counsel Agency Fund.³⁸ The proposed subtitle would repeal the fee in the first year of service in the District market for a new LEC. Only one new LEC entered the market in FY 2010 and the number has steadily declined in recent years, so this change is unlikely to affect revenues.

The PSC charges Local Exchange Carriers (“LECs”) and Voice Over Internet Protocol (“VOIP”) service providers an amount to support a universal service subsidy representing each carrier’s share of the total universal service subsidy based on their total revenues for local exchange services provided in the District from the previous year.³⁹ The proposed legislation would allow the PSC to exempt any LEC or VOIP service provider from this requirement if the contribution to the universal service subsidy is considered to be *de minimus* because the amount is small enough that it costs more to collect than the amount that would be collected. This change is not projected to affect the District’s revenues.

Financial Impact

Currently, PSC-assessed fines go to the General Fund of the District.

The PSC rarely assesses fines on utilities and a substantial increase in the fine amount is likely to cause increased compliance with rules and regulations so this subtitle is unlikely to increase revenues for the District.

³⁷ D.C. Official Code § 34-706

³⁸ D.C. Official Code § 34-912(b)(4)

³⁹ D.C. Official Code § 34-2003(4)(b)

TITLE III- PUBLIC SAFETY AND JUSTICE

Subtitle (III)(A) – Access to Justice Initiative Amendment Act of 2011

Background

The Access to Justice Initiative (“the Initiative”) is a paper agency⁴⁰ that houses all grant funds appropriated by the Council for the specific purpose of supporting civil legal services funding. Currently, the Office of the Chief Financial Officer (OCFO) awards a grant in each fiscal year from the Initiative to the District of Columbia Bar Foundation (“Bar Foundation”), which uses the grant funds to support nonprofit organizations that deliver civil legal services to low-income and under-served District residents. The proposed subtitle would amend the Access to Justice Initiative Establishment Act of 2010⁴¹ to make a number of changes to the Initiative.

First, the proposed subtitle would move the Initiative to under the control of the Office of the Deputy Mayor for Public Safety and Justice (“Office of the Deputy Mayor”)⁴² and as such, the Office of the Deputy Mayor, and not the OCFO, would be responsible for awarding any grants from its funds.

Second, it would provide a formal name to the grant awarded to the Bar Foundation to support nonprofits: Access to Justice Grant Funding for Civil Legal Services (ATJ).

Third, it would broaden the scope of the Initiative. In addition to consisting of ATJ, it also would consist of the District of Columbia Poverty Lawyer Loan Repayment Assistance Program (LRAP).^{43,44} Under current law, funding for LRAP is specified by an act of the Council and then allocated to the Office of the Attorney General (OAG). OAG then must use this money to serve as LRAP’s Administrator or to provide a grant to a third party to serve as the Administrator.⁴⁵

Under the proposed subtitle, the Office of the Deputy Mayor, and not OAG, would be allocated these funds and subsequently required to use them to serve as LRAP’s Administrator or to provide a grant to a nonprofit entity to serve as the Administrator. For FY 2012, the subtitle requires that the Office of the Deputy Mayor designate the Bar Foundation to serve as the Administrator.

⁴⁰ A paper agency is an agency that does not have any Full Time Equivalent employees.

⁴¹ Effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 4-1601).

⁴² Currently, the Office of the Deputy Mayor does not exist; Subtitle (III)(C) – Office of the Deputy Mayor for Public Safety and Justice Establishment Act would create it. There is, however, an agency—Deputy Mayor for Public Safety and Justice—that was created by Mayor Vince Gray in January 2011 to provide guidance, support, and coordination of public safety and justice agencies of the District.

⁴³ Established by the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Act of 2007, effective March 2, 2007 (D.C. Law 16-203; D.C. Official Code § 1-308.21 *et seq.*).

⁴⁴ The Mayor’s Proposed FY 2012 budget put both ATJ and LRAP under the Deputy Mayor for Public Safety and Justice Agency.

⁴⁵ Currently, the Bar Foundation administers LRAP.

Fourth, it would allow LRAP's Administrator to use up to 15 percent of the allocated funding for reasonable administrative expenses. Currently, only 5 percent can be used for administrative expenses.

Fifth, for participants in LRAP who are involuntary terminated from their jobs due to budgetary reasons, the proposed subtitle would forgive the portion of their loan through the date of eligible employment. The participant would be required to repay the remaining portion.

Sixth, it would clarify the reporting requirements for the Bar Foundation and the Administrator. They each must provide the Office of the Deputy Mayor with an annual financial audit and semiannual programmatic reports on the administration and performance of their respective programs (ATJ and LRAP).

Lastly, the proposed subtitle would allow the Bar Foundation and the Administrator to use a portion of their allocated funding for administrative expenses to secure the required annual financial audits.

Financial Impact

Changing the location of where funding for ATJ is housed would not have any impact since it would not change the amount of money allocated to the program. Similarly, the proposed subtitle would not have an effect on the amount allocated to LRAP, but rather would change who this money was initially allocated to and how it could be used. These changes have no impact on the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (III)(B) – FEMS Overtime Limitation Amendment Act of 2011

Background

The proposed subtitle would amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978⁴⁶ to prohibit in FY 2012 uniformed members of the Fire and Emergency Medical Services Department (FEMS) at the rank of Battalion Fire Chief and above from receiving overtime compensation for work performed in excess of 40 hours in an administrative workweek; uniformed members at the rank of Battalion Fire Chief and above in the Firefighting Division from receiving overtime compensation for work performed in excess of 48 hours in a workweek; and any officer or member of FEMS that is authorized to receive overtime compensation from earning overtime in excess of \$20,000 in the fiscal year.

It also would amend Title 5 of the D.C. Official Code⁴⁷ to prohibit in FY 2012 any member of FEMS, except for officers, from working more than 204 hours in two consecutive pay periods and all members of FEMS, including officers, from earning overtime compensation for overtime work performed in a pay period after having received sick leave.

None of the above limitations would apply to members of FEMS who are classified as Heavy Mobile Equipment Mechanics or a Fire Arson Investigators Armed (Canine Handler).

⁴⁶ Effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03(f)).

⁴⁷ D.C. Official Code § 5-405.

Lastly, the proposed subtitle would amend the Omnibus Public Safety Agency Reform Amendment Act of 2004⁴⁸ to prohibit for FY 2012 any officer or member of FEMS to be detailed to Emergency Medical Technician classes for more than 60 days.

Financial Impact

The Fiscal Year 2011 Budget Support Act of 2010 contained essentially the same provision limiting overtime in FEMS, but it was only applicable for FY 2011. It, along with other measures employed by the Chief of FEMS, have contributed to FEMS' ability to stay within their FY 2011 approved overtime budget of \$4 million, which is approximately \$8 million less than was actually spent on overtime in FY 2010.

The proposed subtitle would ensure that the same overtime limitations remain in place for FY 2012, with one exception: Heavy Mobile Equipment Mechanics and Fire Arson Investigators Armed (Canine Handlers) would be exempt from the overtime limitations. Given that there are currently only 23 such Mechanics and 2 Investigators it is unlikely that such an exemption would significantly affect the overtime budget.

The Mayor's proposed FEMS overtime budget for FY 2012 is \$3.83 million, thus it implicitly assumes that there will be some overtime controls similar to those implemented in FY 2011. The Council has reduced this budget to \$2.83 million, assuming that this subtitle as well as other cost-saving measures would be implemented. Nevertheless, it is not possible to determine what portion of any overtime savings are specifically attributable to this subtitle until it is fully implemented.

Subtitle (III)(C) – Office of the Deputy Mayor for Public Safety and Justice Establishment Act

Background

The proposed subtitle would establish⁴⁹ the Office of the Deputy Mayor for Public Safety and Justice ("Office of the Deputy Mayor"), as a separate agency, subordinate to the Mayor within the executive branch of the District of Columbia government. The Office of the Deputy Mayor would be headed by a Deputy Mayor for Public Safety and Justice, who would be appointed and subsequently confirmed by the Council.⁵⁰ This requirement would not apply to the incumbent Deputy Mayor who was appointed by the Mayor on January 2, 2011.

The Office of the Deputy Mayor would:

- Be responsible for providing guidance, support, and coordination of public safety and justice agencies within the District of Columbia government;
- Promote, coordinate, and oversee collaborative efforts among District government agencies, and between the District and federal government agencies, to ensure public safety and enhance the delivery of public safety and justice services;

⁴⁸ Effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-441).

⁴⁹ Pursuant to section 404(b) of the Home Rule Act.

⁵⁰ Pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

- Serve as a liaison to federal government agencies associated with criminal justice or public safety issues, in the coordination, planning, and implementation of public safety and justice matters; and
- Have oversight over, and provide administrative support for, the following programs: 1) Access to Justice Initiative; 2) Motor Vehicle Theft Prevention Commission; 3) Corrections Information Council; 4) Office of Justice Grants Administration; and 5) Office of Victim Services. Funding for each of these programs would be specified by an act of Council, as is the current practice under law.

In January 2011, the Mayor created the Deputy Mayor for Public Safety and Justice, an agency whose mission is to provide guidance, support, and coordination of public safety and justice agencies of the District. This subtitle would make this a statutory subordinate agency within the District government.

Financial Impact

The Mayor's proposed FY 2012 budget provides the Deputy Mayor with a total operating budget of \$17,893,980⁵¹ and 17 FTEs. (In contrast, the FY 2011 budget only contained \$375,000 and 3 FTEs.) The proposed FY 2012 budget also expands the role of the agency to include oversight of service programs that previously had operated as independent agencies: 1) Access to Justice Initiative; 2) Motor Vehicle Theft Prevention Commission; 3) Corrections Information Council; 4) Office of Justice Grants Administration; and 5) Office of Victim Services. Lastly, the proposed budget states that the Deputy Mayor will provide direction, planning, and coordination to local and regional partners to ensure that the Public Safety and Justice cluster is ready to respond to an emergency of any size.

Thus, the proposed subtitle does not alter the mission or responsibilities of the Deputy Mayor as detailed in the Mayor's FY 2012 budget, but rather, it codifies these responsibilities and the agency itself. As a result, implementation of this subtitle would not require any resources in addition to those proposed in the Mayor's FY 2012 budget and would not have an impact on the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (III)(D) – Criminal Code Reform Extension Amendment Act of 2011

Background

The proposed subtitle would amend the Advisory Commission on Sentencing Establishment Act of 1998⁵² by extending the deadline for completion of the Sentencing and Criminal Code Revision Commission's ("Commission") comprehensive recommendations on revisions of the criminal code from September 30, 2012 to September 30, 2014.

Financial Impact

Extending the deadline would not have any impact on the proposed FY 2012 through FY 2015 budget and financial plan as it does not require any additional resources be given to the Commission.

⁵¹ Of this amount, \$6.4 million is local funds and \$1 million is special purpose revenue funds.

⁵² Effective June 16, 2006 (D.C. Law 16-126; D.C. Official Code § 3-101.01(b)).

Subtitle (III)(E) – National Guard Morale Welfare and Recreation DCNG Youth ChalleNGe Participant Support Fund Establishment Amendment Act of 2011

Background

The proposed subtitle would amend the National Guard Morale Welfare and Recreation Act of 2009⁵³ to: 1) allow the Commanding General of the District of Columbia National Guard (DCNG) to establish a Youth ChalleNGe Participant Support Fund (“Fund”) for the purpose of assisting in the purchase and provision of materials, supplies, and equipment for participants of the DCNG Youth ChalleNGe Program (“Program”);⁵⁴ 2) allow the Fund to accept donations of money or property; 3) permit the Commanding General to authorize up to that up to \$3,000 of any unused District balance from the funds appropriated in a fiscal year for the Program to be retained in the Fund for use in the current or a subsequent fiscal year; and 4) prohibit the balance of the Fund from exceeding \$10,000.

Financial Impact

This subtitle does not require the creation of the Fund, but rather allows the Commanding General to establish one. If the Commanding General chooses to establish one, it would allow the Fund to keep \$3,000 that otherwise would have gone into the General Fund. These changes have no impact on the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (III)(F) – E-911 Fund Fixed Costs Amendment Act of 2011

Background

The proposed subtitle would amend the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000⁵⁵ to allow monies in the Emergency and Non-Emergency Number Telephone Calling Systems Fund (“E-911 Fund”)⁵⁶ be used to defray security costs during FY 2011 and FY 2012

Under current law, no monies in the E-911 Fund as of October 1, 2010 are to be used to defray non-personnel costs related to overhead, including energy, rentals, janitorial services, security, or occupancy costs. Instead, monies only are to be used to defray both technology and equipment costs directly incurred by the District of Columbia and its agencies and instrumentalities in providing a 911 system, and direct costs incurred by wireless carriers in providing wireless E-911 service.⁵⁷

⁵³ Effective December 8, 2009 (D.C. Law 18-83; D.C. Official Code § 49-431 *et seq.*).

⁵⁴ The ChalleNGe Program is a 22 week residential camp administered by DCNG for at-risk youth that is followed by a year-long mentoring relationship with a specially trained mentor from the youth's community. For more information, see <http://www.ngycp.org/state/dc/aboutus.php>.

⁵⁵ Effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 34-1801 *et seq.*).

⁵⁶ D.C. Official Code § 34-1802.

⁵⁷ Therefore no monies could be used to defray non-personnel costs related to overhead.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Financial Impact

In FY 2011, \$1.6 million from the E-911 Fund was used to defray non-personnel costs. This same amount will be used in FY 2012. All other non-personnel costs will be covered by local funds. Beginning in FY 2013, other monies would need to be identified to cover these costs. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

TITLE IV – PUBLIC EDUCATION

Subtitle (IV)(A) – Funding for Public Schools and Public Charter Schools Amendment Act of 2011

Background

The proposed subtitle would make various changes to how general and special education are funded in the District of Columbia. It would also regulate the ways in which schools can spend the Special Education dollars schools received through the Uniform per Student Funding Formula (“Special Education Formula Dollars”).

First, the subtitle would increase foundation level funding from \$8,870 per student to \$8,945 per student. It would also increase special education funding levels by increasing the weighting factors for Levels 1 and 4.⁵⁸ Furthermore, it would create two new categories of add-ons for special education—*Special Education Compliance Fund* to hold a portion of Special Education Formula Dollars to support federal and local special education compliance efforts (with a weighting factor of 0.16)⁵⁹ and *Special Education Capacity Fund*, to hold a portion of Special Education Formula Dollars, which support quality improvements to special education programming, including professional standards and development requirements under federal law (with a weighting factor of 0.40).

Second, it would put a renewed emphasis on the Maintenance of Effort requirements under the Individuals with Disabilities Education Act (IDEA). Federal Maintenance of Effort is a requirement on both state and local level education agencies (LEAs)—in the District, the Office of the State Superintendent of Education (OSSE) at the state level, and DCPS and charters at the local level—that the level of state and local funding remains relatively constant from year to year.⁶⁰ The proposed subtitle would amend the School Reform Act⁶¹ to require that District of Columbia Public Schools (DCPS) and all public charter schools⁶² that receive Special Education Formula Dollars and federal funds for special education under IDEA⁶³ meet federal Maintenance of Effort requirements; that is, each of these schools must expend, in total, an equal or greater amount of its local funds on allowable special education costs each subsequent fiscal year. Under the proposed subtitle, schools that don’t meet federal Maintenance of Effort requirements would be penalized through a reduction

⁵⁸ Level 1 weighting factor increases from 0.52 to 0.58, Level 2 from 0.79 to 0.81, Level 3 from 1.56 to 1.58, Level 4 from 2.83 to 3.10.

⁵⁹ This includes a weighting factor of 0.07 for compliance funds per the Blackman-Jones settlement, and a weighting factor for attorney’s fees of 0.09.

⁶⁰ At the local level, LEAs are required to budget at least as much as they had expended in the previous year on special education (34 CFR § 300.163). 34 CFR § 300.205 (a) allows for a reduction in Maintenance of Effort requirements when an LEA has an increase in its IDEA flow-through allocation. CFR § 300.204 lists the conditions under which local allocations to special education decline due to cost reductions not under the LEA’s control, such as reduction in special education enrollment, reduction in special education or related services personnel, when a child with a disability that incurs an exceptionally costly program either leaves the District, ages out, or no longer needs the special education program or termination of costly expenditures for long-term purchases, such as the acquisition of a vehicle used for special education transportation.

⁶¹ Effective April 26, 1996 (110 Stat 1321; Pub. L. 104-134; D.C. Official Code § 1801 *et seq.*).

⁶² Some public charter schools have elected DCPS as their LEA for special education purposes. This subtitle applies to all charter schools, regardless of their LEA.

⁶³ These include special education add-ons in UPSFF and federal grants under IDEA.

in Uniform Per Student Funding Formula (UPSFF) allocations for the next year in an amount that is equal to the difference between what they should have expended to meet Maintenance of Effort requirements versus what they actually spent.

Third, it would prohibit the inclusion of special education attorney fees (budgeted under the Special Education Compliance Fund) in the Maintenance of Effort calculations, and disallow the use of Special Education Formula Dollars for such attorney fees unless these dollars are appropriated to the Special Education Compliance Fund through UPSFF.

Fourth, the subtitle would require that schools expend their Special Education Formula Dollars within the year these funds are appropriated, and should they fail to do so, return the unexpended funds to OSSE. OSSE would also have the authority to withhold the unspent, yet unreturned portions of the Special Education Formula Dollars from the next fiscal year's UPSFF budget allocation. Charter schools that relinquish their charters would be required to refund any unspent portions of the Special Education Formula Dollars, and DCPS and public charter schools would be required to report to OSSE all expenditures made through the Special Education Formula Dollars.

Fifth, it would expressly prohibit spending Special Education Formula Dollars on non-special education activities unless they meet Maintenance of Effort requirements.⁶⁴ The proposal defines allowable special education costs as instruction related costs,⁶⁵ costs of related services,⁶⁶ and administrative services related to the direct implementation of IDEA.⁶⁷ LEAs that do not meet Maintenance of Effort requirements would be required to reserve the full amount of unspent funds, which then, would be expended pursuant to a Corrective Action Plan approved by OSSE.

The changes made to the foundation level funding, and the various add-ons are depicted in the following tables:

Weightings applied to counts of students enrolled at certain grade levels		
Grade Level	Weighting	Per Pupil Allocation in FY 2012
Pre-School	1.34	\$11,986
Pre-Kindergarten	1.30	\$11,629
Kindergarten	1.30	\$11,629
Grades 1-3	1.00	\$8,945
Grades 4-5	1.00	\$8,945

⁶⁴ Unless an LEA is in compliance with 34 CFR § 300.203 and has received an Annual Determination as required by 34 CFR § 300.600(a) of "Meets Requirements" for the most recent year for which this information is available

⁶⁵ These include salaries, benefits, supplies, textbooks, professional development, contracted services, and transportation costs for instructional personnel.

⁶⁶ Related services is defined in 34 CFR § 300.34 and supplementary aids and services is defined in 34 CFR § 300.42.

⁶⁷ Specifically Part B programmatic and fiscal requirements within the public school such as salaries, cost of contracted services including fees paid for professional services, advice and consultation regarding the implementation of IDEA, and the delivery of special education services to students with Individualized Education Programs (IEPs) by public or private entities; assistive technology devices for students with IEPs, not including medical devices, surgical implants such as cochlear implants, implementation of Due Process Hearing decisions, compensatory education plans, coordinated early intervening services programs defined in 34 CFR § 300.226, and transition of a student back into public schools in the District of Columbia who, as a result of an IEP decision or due process hearing decision, is currently attending a non-public school.

Weightings applied to counts of students enrolled at certain grade levels		
Grade Level	Weighting	Per Pupil Allocation in FY 2012
Ungraded elementary school	1.00	\$8,945
Grades 6-8	1.03	\$9,213
Ungraded middle school/junior high school	1.03	\$9,213
Grades 9-12	1.16	\$10,376
Ungraded senior high school	1.16	\$10,376
Alternative program	1.17	\$10,466
Special education school	1.17	\$10,466
Adult	0.75	\$6,709

General Education Add-ons			
Level/ Program	Definition	Weighting	Per Pupil Supplemental
LEP/NEP	Limited and non-English proficient students	0.45	\$4,025
Summer	An accelerated instructional program in the summer for students who do not meet literacy standards pursuant to promotion policies of DCPS and public charter schools	0.17	\$1,521
Extended school day	Extended learning time beyond the regular school day	0.1	n/a

Special Education Add-ons			
Level/ Program	Definition	Weighting	Per Pupil Supplemental
Level 1: Special Education	Eight hours or less/week of specialized services.	0.58	\$5,188
Level 2: Special Education	More than 8 hours and less than or equal to 16 hours per school week of specialized services.	0.81	\$7,245
Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services.	1.58	\$14,133
Level 4: Special Education	More than 24 hours per week which may include instruction in a self contained (dedicated) special education school other than residential placement.	3.10	\$27,730
Special Education Capacity Fund	Weighting provided in addition to special education level add-on weightings on a per student basis for each student identified as eligible for special education.	0.40	\$3,578
Special Education Compliance Fund	Weighting provided in addition to special education level add-on weightings on a per student basis for each student identified as eligible for special education.	0.16	\$1,431
Residential	DCPS or public charter school that provides students with room and board in a residential setting, in addition to their instructional program.	1.70	\$15,207

Residential Add-ons			
Level/ Program	Definition	Weighting	Per Pupil Supplemental Funds
Level 1: Special Education - Residential	Additional funding to support the after-hours Level 1 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	0.374	\$3,345
Level 2: Special Education - Residential	Additional funding to support the after-hours Level 2 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	1.360	\$12,165
Level 3: Special Education - Residential	Additional funding to support the after-hours Level 3 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	2.941	\$26,307
Level 4: Special Education - Residential	Additional funding to support the after-hours Level 4 special education needs of limited and non-English proficient students living in a DCPS or public charter school that provides students with room and board in a residential setting.	2.924	\$26,155
LEP/NEP - Residential	Additional funding to support the after-hours limited and non-English proficiency needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	0.68	\$6,083

Special Education Add-ons for Students with Extended School Year (ESY) Indicated in Their Individualized Education Programs (IEPs)			
Level/ Program	Definition	Weighting	Per Pupil Supplemental Funds
Special Education Level 1 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.064	\$572
Special Education Level 2 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.231	\$2,066
Special Education Level 3 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.500	\$4,473

Special Education Add-ons for Students with Extended School Year (ESY) Indicated in Their Individualized Education Programs (IEPs)			
Level/ Program	Definition	Weighting	Per Pupil Supplemental Funds
Special Education Level 4 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.497	\$4,446

Financial Impact

The fiscal implications of the changes made in the foundation level funding, the new special education funding categories, and changes made to the weighting factors associated with special education are already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan. Under the proposed subtitle, DCPS would receive \$611,817,320 for its instructional budget through UPSFF. Public charter schools would receive \$392,825,731 for their instructional budgets and \$97,127,510 for facilities allowance,⁶⁸ bringing their collective local budget to \$483,667,241.⁶⁹

Adherence to Maintenance of Effort requirements is necessary under the federal requirements. Should the District’s state or local education agencies fail to meet these requirements, the District may have to pay back funds received under IDEA, as well as additional funding received under the federal stimulus. At the same time, despite the proposed increases to special education funding, it is not known at this time if DCPS and public charter schools would be able to meet Maintenance of Effort requirements quickly enough to avoid penalties proposed by the proposed subtitle:

- For charter schools, the implementation would require a great deal of assistance from OSSE. While some schools have the ability to report their special education expenditures, OSSE has not been able to verify that all charter schools have necessary capacity to *demonstrate* that they have met Maintenance of Effort requirements.
- For DCPS, the proposed subtitle implies that any improvements in the efficiency of special education services (for example, through better Medicaid recovery) would not result in any significant cost savings, since Maintenance of Effort requirements would make it harder for DCPS to reduce its special education expenditures.

⁶⁸ This includes \$90,841,510 from local funds, and \$6,286,000 in Intra-District Funds transferred from OSSE, to be distributed on the basis of audited enrollment with verified residency.

⁶⁹ The increases in special education add-ons as well as the new categories created in the funding formula are partially funded by various state level compliance and capacity development funds that were previously budgeted under OSSE. Now these funds would be made available to DCPS and public charter schools through the UPSFF. The planned local funds for OSSE in FY 2012 are \$95,121,933, which represents a reduction of \$17,251,802 from the previous year.

Subtitle (IV)(B) – Healthy Schools Technical Amendment Act of 2011

Background

The proposed subtitle would⁷⁰ eliminate the requirement for the Office of the State Superintendent of Education (OSSE) to reimburse D.C. public charter schools for serving breakfast. Charter schools would still be required to provide free breakfast to all students.

In addition, the proposed subtitle would⁷¹ dedicate \$4,266,000 annually into the Healthy Schools Fund from the gross sales tax revenue⁷² beginning October 1, 2011, in lieu of the annual appropriations this Fund currently receives. The Healthy Schools Fund is a nonlapsing special purpose fund solely used to fund the reimbursements and grant programs to schools established by the Healthy Schools Act of 2010. OSSE would administer any unspent end-of-year balances of this Fund, to support competitive grants to public schools and public charter schools in support of school gardens or programs to increase the amount of physical activity in which their students engage.⁷³

Financial Impact

OSSE currently reimburses D.C. public charter schools 30 cents for each breakfast served to students who qualify for reduced-price meals and the difference between free and paid rates for breakfasts served in severe-need schools. Charter schools would still be required to provide free breakfast, but would have to pay the costs out of their existing resources. As a result of ending the breakfast reimbursement to charter schools, the proposed subtitle would save \$1.26 million in FY 2012 and \$5.05 million over the FY 2012 through FY 2015 financial plan period. These funds would remain in the General Fund.

Additionally, replacing the \$4.3 million appropriations to the Healthy School Fund by dedicated tax revenues of the same amount has no net fiscal impact. The impact of the proposed subtitle is already incorporated into the budget and financial plan.

Subtitle (IV)(C) – Day Care Policy Amendment Act of 2011

Background

The proposed subtitle would amend the Day Care Policy Act of 1979⁷⁴ to increase the number of children allowed in a child development home⁷⁵ from five to six.

Financial Impact

⁷⁰ By amending the Healthy Schools Act of 2011, effective July 27, 2010. (D.C. Law 18-209; D.C. § 38-821.0 *et seq.*).

⁷¹ By amending the Healthy Schools Act of 2010, approved July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.02).

⁷² D.C. Official Code § 47-2002.

⁷³ As required by § 38-821.02 (c)(6) and (c)(7).

⁷⁴ Effective September 19, 1979. (D.C. Law 3-16; D.C. Official Code § 4-401).

⁷⁵ This term refers to a private residence that provides a child development program.

The subtitle would align D.C. Official Code with D.C. Municipal Regulations and current practice. Implementation of the proposed subtitle would not impact the District's budget and financial plan.

Subtitle (IV)(D) – Charter School Payment Advance Amendment Act of 2011

Background

The proposed subtitle would amend District's laws on public education funding⁷⁶ to allow the Office of the State Superintendent of Education (OSSE) hold in escrow the July 15 payment of a public charter school if the Public Charter School Board proposes to revoke the charter of the said school before July 15. OSSE would have the discretion to approve the distribution of the July 15 payment, and if the revocation decision becomes final, the Mayor would not have any obligation to release the funds in the escrow account.

Financial Impact

The proposed subtitle would allow the District to withhold payments to charter schools that might not be operating in the school year subsequent to July 15, on which the first payment for the school year is due. Under current law, all public charter schools are entitled to the July 15 payment, even when it is extremely likely the one or more of these schools would lose their charter and will not be open at the beginning of the academic year. The proposed provision would allow the Mayor to withhold payments to such schools.

This provision, if enacted, could potentially reduce the payments made to public charter schools, but no such reduction has been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (IV)(E) – Direct Loan Fund for Charter School Improvement Amendment Act of 2011

Background

The proposed subtitle would amend District laws on public charter school financing and support⁷⁷ to limit the term of all D.C. Government supported loans made to public charter schools to five years, unless the loan is made under the New Markets Tax Credit program,⁷⁸ in which case the term

⁷⁶ Uniform Per Student Funding Formula for Public Schools and Public Charter Schools and Tax Conformity Clarification Amendment Act of 1998, effective March 26, 1999, (D.C. Code § 38-2906.02).

⁷⁷ District of Columbia Appropriations Act of 2003, approved February 20, 2003 (117 Stat. 131; D.C. Official Code § 38-1833.02).

⁷⁸ Under the New Markets Tax Credit Program, taxpayers receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities—public charter schools in the District are considered such entities. For details about the program, and eligibility requirements to be considered as a Community Development Entity, please see U.S. Department of Treasury, New Markets Tax Credit Program, at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5. Accessed on March 28, 2011.

of the loan could extend to seven years. Under current law, the Office of Charter School Financing and Support determines what interest rates and terms apply to such loans.

Additionally, the proposed legislation would change the eligibility requirements for such loans. Under current law, a District of Columbia public charter school that meets or exceeds its performance goals as outlined in its originating charter is eligible for such a loan. The proposed subtitle would expand the eligibility to cover limited liability corporations that participate in the New Markets Tax Credit program transaction structure with public charter schools, and non-profit corporations that develop and finance a facility that will be occupied by a public charter school throughout the term of the loan.

Financial Impact

The proposed changes expand the type of entities that would be eligible to receive public loans. These changes reflect various necessary institutional arrangements charter schools must observe to participate in the New Markets Tax Credit program, or to otherwise successfully raise funds from financial markets. These changes do not affect the planned public lending to D.C. public charter schools already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (IV)(F) - Adult Literacy Reporting Act of 2011

Background

The proposed subtitle would require the Office of the Deputy Mayor for Education (“DME”) to report annually the capacity of the District funded service providers to meet the need and demand for adult literacy services. Among other things, DME is required to report data on the need for, and the supply of, literacy services, and perform a gap analysis on the capacity to serve the target population. DME is required to issue the report by April of each fiscal year between 2012 and 2016.

Financial Impact

The fiscal impact of the proposed subtitle is already incorporated into proposed FY 2012 through FY 2015 budget and financial plan. The proposed budget allocates \$150,000 annually to DME in support of this reporting requirement.

Subtitle (IV)(G) – University of the District of Columbia Nonresident Tuition Amendment Act of 2011

Background

The proposed subtitle would require⁷⁹ that the Trustees of the University of the District of Columbia (UDC) establish a non-resident tuition rate for all UDC programs at levels no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

Financial Impact

UDC has already been working on non-resident tuition structure for the Community College of the District of Columbia (CCDC), which they plan to submit to the Board of Trustees of UDC by the end of this fiscal year.

Approximately 43 percent of full time equivalent students enrolled at the CCDC are not DC residents— about 4 percent are residents of the states of Virginia or Maryland, and the remaining are on international student visas.⁸⁰ A higher tuition rate will increase revenue collected from each student, but overall revenues could either increase or decline depending on the responsiveness of enrollment to the tuition rate increase. Without the new tuition structure in place, the net effect of such an increase cannot be known.

Subtitle (IV)(H) – Community College of the District of Columbia Plan for Independence Act of 2011

Background

The proposed subtitle would establish a five member University of the District of Columbia Community College Transition to Independence Advisory Board (“Advisory Board”), which, in collaboration with the President and Chairman of the Board of Trustees of the University of the District of Columbia (“UDC”), and the Chief Executive Officer of the Community College of the District of Columbia (“CCDC”) would be required to develop and submit to the Council by no later than November 28, 2011, a Transition Plan towards establishment of an independent CCDC.

The Transition Plan would identify all actions necessary for CCDC to operate independently from the UDC flagship university, including the necessary governance structure, the accreditation process, planned programs of study, an independent budget for the first five years of operation as an independent entity starting FY 2013, a draft Terms of Articulation regulating the transfer of credits and admission policies between CCDC and UDC, a Workforce and Local Education Plan, and

⁷⁹ By amending District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Official Code § 38-1204.07).

⁸⁰ Data from UDC Fact Sheet for Spring 2011 available at <http://www.udc.edu/irap/docs/Fact%20Sheets/Spring%202011%20Factsheet.pdf>. Accessed on June 8, 2011.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

a plan that would detail the transfer of positions, employees, property, and funds from UDC to an independent CCDC.

Financial Impact

The fiscal impact of the proposed subtitle is already incorporated into proposed FY 2012 through FY 2015 budget and financial plan. The proposed FY 2012 budget allocates \$500,000 from the Local General Fund to support the development of the Transition Plan. The monies would be transferred to an account held by the UDC Trustees exclusively for supporting the development of the Transition Plan.

TITLE V- HEALTH AND HUMAN SERVICES

Subtitle (V)(A) – Intellectual Disability Services Medicaid Maximization Reform Amendment Act of 2011

Background

The proposed subtitle would amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978⁸¹ (“Act”) to require that as of January 1, 2012, a person with mental retardation who is otherwise eligible to receive support and services from the District pursuant to the Act must either pay the full cost of such support and services directly to the provider or become Medicaid eligible and maintain Medicaid eligibility in order to receive support and services from a Medicaid-eligible provider.

This requirement would not apply to a person: 1) who is a former resident of Forest Haven; 2) whose needs cannot reasonably be met by a District Medicaid provider; 3) who is eligible for enrollment in the D.C. Healthcare Alliance; or 4) who lost Medicaid eligibility due to a failure by their representative payee, who for the purposes of Social Security benefits is either the Department of Disability Services (DDS) or a provider agency who is contracted with the District to provide supports and services.

In addition, the proposed subtitle would require that DDS work with and support the person to become District Medicaid eligible and to maintain District Medicaid eligibility.

Financial Impact

The proposed subtitle is likely to result in savings which cannot be reliably estimated at this time. Currently, a handful of people under the care of DDS in out-of-state settings are receiving support and services funded entirely by local District dollars.⁸² Under the proposed subtitle, these people would have two options: 1) they could enroll in Medicaid and receive support and services only from a Medicaid-eligible provider;⁸³ or 2) they could pay the full cost of the support and services. In the first case, the District would still be required to pay room and board for these individuals, but it would only be required to pay 30 percent of the costs of the services. The federal government would pay the other 70 percent.

In the second case, the District would no longer have to pay any costs associated with the person’s care. Requiring DDS to work with and support people to become and maintain Medicaid eligibility would not have any cost, as this is already current practice.

⁸¹ Effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*).

⁸² These people were placed in such settings by DDS or through placements by the District of Columbia Public Schools or the Child and Family Services Agency. DDS no longer sends people out of state to non-Medicaid funded settings.

⁸³ This likely would require people receiving the support and services to move back to the District, as there are only a few out-of-state providers that are enrolled in the District’s Medicaid waiver program. Some institutions are not allowed to enroll.

Subtitle (V)(B) – Office of Asian and Pacific Islander Affairs Grant-Making Authority Amendment Act of 2011

Background

The proposed subtitle would amend the Office on Asian and Pacific Islander Affairs Establishment Act of 2001⁸⁴ to give the Office of Asian and Pacific Islander Affairs the authority to issue grants to organizations that provide services to Asian and Pacific Islander residents of the District of Columbia in furtherance of its mission.

Financial Impact

Providing grant authority would not have any impact on the financial and budget plan. Any grants awarded under this authority would be made within available agency resources in the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(C) – Temporary Assistance for Needy Families Amendment Act of 2011

Background

The proposed subtitle would amend the District of Columbia Public Assistance Act of 1982⁸⁵ to reduce Temporary Assistance for Needy Families (TANF) benefits for an individual who has received such benefits for more than 60 months in the District of Columbia, whether or not consecutive. These reductions would begin in FY 2013 and would be as follows:

- For FY 2013, a reduction of 25% of the FY 2012 amount;
- For FY 2014, a reduction of 41.7% of the FY 2013 amount; and
- For FY 2015 and thereafter, no benefits would be provided.

The District uses all local funds to pay for these extended benefits.⁸⁶

Financial Impact

The reduction in TANF benefits for individuals who have received benefits for over 60 months is estimated to result in no cost savings in FY 2012, but \$50.32 million in savings over the four-year financial plan period. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

⁸⁴ Effective October 3, 2001 (D.C. Law 14-028; D.C. Official Code § 2-1373(c)).

⁸⁵ Effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*).

⁸⁶ In accordance with federal law, federally-funded TANF benefits are not to be provided to any assistance unit that has received federally-funded TANF benefits for 60 months (whether or not consecutive). However, federal law does not impose any time limitations with regards to the use of local dollars to fund extended TANF benefits.

Estimated Fiscal Impact of Subtitle V(C) – Temporary Assistance for Needy Families Amendment Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013³	FY 2014	FY 2015	Four-Year Total
Estimated Savings ^{1, 2}	\$0	\$6.58	\$15.36	\$28.38	\$50.32

Table Notes

¹ Average benefit for FY 2012 is \$299.

² Over-60-months caseload increases by 40 every month

³ The savings estimate assumes full implementation. The out-year savings estimate is higher because of the incremental cuts proposed by the subtitle.

Subtitle (V)(D) – Mental Health Services Eligibility Act of 2011

Background

The proposed subtitle would require the Department of Mental Health (DMH) to issue regulations governing eligibility for locally-funded mental health rehabilitation services (MHRS) by October 1, 2011. At a minimum, such rules would limit eligibility to individuals who: 1) are District residents; 2) are not eligible for Medicaid or Medicare or are not enrolled in any other third-party insurance program; 3) are 19 years of age and older and live in households with a countable income of less than 200 percent of the Federal Poverty Level (FPL) or are under 19 and live in households with a countable income of less than 300 percent of the FPL; and 4) meet the definition of “children and youth with mental health problems” and “persons with mental illness.”⁸⁷

Financial Impact

The proposed subtitle is likely to result in savings since, once the eligibility regulations are issued, certain individuals would no longer be eligible for locally-funded MHRS, and thus, the District would stop spending local dollars on them. However, at this time, it is not possible to reliably estimate such savings. DMH is currently conducting an analysis to determine how many individuals receiving locally-funded MHRS are enrolled in or eligible for Medicaid or Medicare, or have private insurance. Preliminary data suggests that of the approximately 18,000 people who receive such services, hundreds may be enrolled in or eligible for Medicaid or Medicare and that far fewer have private insurance.

Subtitle (V)(E) – Medical Assistance Program Amendment Act of 2011

Background

⁸⁷ As defined in D.C. Official Code § 7-1131.02.

The proposed subtitle would amend current law⁸⁸ to provide that the review and approval by the Council of the Fiscal Year 2012 Budget and Financial Plan would constitute the required Council review and approval of: 1) any amendment to the District of Columbia State Plan for Medical Assistance (“State Plan”) that would change the methodology used for the reimbursement for single source brand name drugs from the average wholesale price minus 10 percent to wholesale acquisition cost plus 3 percent; and 2) any amendment to the State Plan that would change in whole or in part the level of personal care services offered as a state plan benefit.

Financial Impact

The Mayor’s proposed FY 2012 budget for the Department of Health Care Finance (DHCF) included local savings of \$1,266,500 to be achieved by changing the current reimbursement methodology for single source brand drugs. Making such a change, however, requires an amendment to the State Plan that must come to the Council for 30-day review and approval before it can be sent to the federal government for its approval.

The proposed subtitle would allow DHCF to partially circumvent this process, as review and approval by the Council of the FY 2012 Budget and Financial Plan would constitute the review and approval of the proposed State Plan Amendment. Thus, no separate review process would be necessary and as a result, DHCF would be able to submit the State Plan amendment to the federal government quicker than under current law. Any delay in the submission could hamper DHCF’s ability to achieve all of the proposed savings. As such, the proposed subtitle reduces the risk of a possible spending pressure related to these savings.

The proposed FY 2012 budget did not contain any savings from changes in the level of personal care services. Therefore, allowing review and approval by the Council for the FY 2012 Budget and Financial Plan to constitute review and approval and any amendments regarding such changes would not have any impact on the budget and financial plan; it simply would allow any future amendments regarding such changes in the level of personal care services to move through the process more quickly, as discussed above.

Subtitle (V)(F) – Families Together Amendment Act of 2011

Background

D.C. Law 18-228, “The Families Together Amendment Act of 2010” (“Act of 2010”) requires the Child and Family Services Agency (CFSA) to conduct either an investigation or a family assessment (as opposed to only an investigation) for reports of certain types of suspected child neglect or abuse.⁸⁹ It also sets two hard deadlines: 1) the use of family assessments had to be fully implemented within 365 days of the effective date of the Act; and 2) on or before October 1, 2010, CFSA had to provide a report to the Council’s Committee on Human Services detailing its progress toward full performance implementation of a family assessment response. The Act of 2010 was

⁸⁸ An Act to enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02(a)).

⁸⁹ Allowing for more than one type of response to initial reports of child abuse and neglect is called differential response.

passed subject to appropriations, and since no funds have been identified, it has yet to be implemented.

The intent of the proposed subtitle is to allow CFSA to use existing resources to phase in the use of family assessments instead of fully implementing their use as required under the Act of 2010. As such, the proposed subtitle still would require CFSA to implement family assessments, but it would amend current law⁹⁰ to remove any deadline to do so. In addition, it would require CFSA on or before December 15, 2011, to submit a written report to the Council's Committee on Human Services detailing the Agency's progress to phase in full implementation of this alternative to investigations. This report would include whether CFSA would need additional funding in FY 2013 for expanded implementation.

Financial Impact

CFSA has sufficient resources in their budget to implement the proposed subtitle. CFSA plans to phase-in family assessments beginning in the last quarter of FY 2011. This will require:

- **Staffing:** CFSA will reallocate the time of 7 existing staff members (1 Supervisory Social Worker, 5 Social Workers and 1 Family Support Worker) to this project. CFSA can do so without affecting current service levels.
- **Training:** CFSA has leveraged free technical assistance from the National Resource Center on Child Protective Services to inform the development of a training curriculum.
- **Adjustments to FACES (CFSA's Statewide Automated Child Welfare Information System):** CFSA can make the required minor adjustments under its existing FACES maintenance contract.⁹¹

For FY 2012, CFSA will continue to use the same staff as above and will assess the feasibility of reallocating the time of additional existing staff; will leverage the Federal Children's Justice Act grant to support specialized curriculum development and training needs for CFSA, District agencies and community stakeholders (approximately \$40,000); and will assess the need for additional FACES adjustments and the ability to leverage the existing FACES maintenance contract for these changes. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(G) – Increase Local Capacity to Serve DYRS Committed Youth Act of 2011

Background

The proposed subtitle would require the Department of Youth Rehabilitation Services (DYRS) to: 1) issue a report summarizing the results and action items from the "Request for Information" concerning establishing inpatient drug treatment programs within 50 miles of the District to the

⁹⁰ Section 104 of An Act To provide for the Care of Dependent Children in the District of Columbia and to Create a Board of Children's Guardians, effective September 23, 1972 (D.C. Law 2-22; D.C. Official Code § 4-1301.04 and § 4-1306.01(d)(1)).

⁹¹ FACES is a comprehensive case management system that supports CFSA in all areas of critical business functions.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Council by December 16, 2011; 2) conduct a study of DYRS youth in Psychiatric Residential Treatment Facility (PRTF) and Residential Treatment Center (RTC); 3) issue a report summarizing the findings of the study to the Council by December 16, 2011; 4) provide to the Council a quarterly census report on DYRS youth placed in PRTF and RTC; and 5) issue quarterly reports on the status of the Money Follows the Person program beginning February 1, 2012.

Financial Impact

There would not be any new cost to implementing this subtitle as DYRS is currently conducting the study of DYRS youth in PRTF and RTC and had previously planned and already budgeted for the other activities. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(H) – Child and Family Services Agency Memorandum of Understanding with the Department of Mental Health Act of 2011

Background

The proposed subtitle would require that the Child and Family Services Agency (CFSA) enter into a memorandum of understanding for FY 2012 with the Department of Mental Health in the amount of at least \$500,000 to fund services provided by the Choice Providers to children and youth under the supervision of CFSA.

Financial Impact

This subtitle would be funded by a portion of the \$908,972 in savings CFSA will realize from reduce staffing levels within Grades 12 to 16 by a total of 9 FTEs in FY 2012. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(I) – Child and Family Services Agency Support of the Family Treatment Court Program Act of 2011

Background

The proposed subtitle would require that in FY 2012 the Child and Family Services Agency use \$400,000 to support the Family Treatment Court program, a partnership between CFSA and the Family Court of the Superior Court of the District of Columbia that provides drug treatment for women whose children are entering foster care due to either a direct or indirect result of the mother's drug use.

Financial Impact

This subtitle would be funded by a portion of the \$700,761 in savings CFSA will realize from eliminating 10 funded vacant positions in FY 2012. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(I) – Interim Disability Assistance Act of 2011

Background

The proposed subtitle would require the Department of Human Services (DHS) to establish limitations on the number of appeals that may be filed by participants in the Interim Disability Assistance (IDA) program.

The IDA program provides \$270 a month to individuals who are unable to work due to a disability, and have a high probability of receiving federal Supplemental Security Income (SSI). IDA payments are issued until SSI eligibility is approved or denied.

The IDA program is not an entitlement. Instead, the number of individuals it can provide a monthly benefit to is determined by its funding level.⁹²

Financial Impact

Establishing limitations on claims would not have any impact on the FY 2012 through FY 2015 budget and financial plan.

Subtitle (V)(K) – Special Events Exemption Amendment Act of 2011

Background

The proposed subtitle would amend the Department of Health Functions Clarification Act of 2001⁹³ to provide that a hotel can be exempted from the smoking ban once a year for one day to host a special event that permits cigar smoking, as long as the hotel notifies the Department of Health in advance, pays a fee of \$2,500, which would be remitted to the Regulatory Enforcement Fund,⁹⁴ and permits employees to opt out of working the special event with no penalty.

Financial Impact

This subtitle could result in an increase in monies in the Regulatory Enforcement Fund; however, unless a significant number of hotels take advantage of this exemption, the increase would be negligible.

⁹² The IDA program is funded through both local and federal dollars. The District is reimbursed by the federal government for 41 percent of the local dollars it spends on the program.

⁹³ Effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-743 *et seq.*).

⁹⁴ This is a non-lapsing, revolving fund that is intended to support the regulatory functions of the Department of Health, including purchasing supplies and equipment, training, and hiring staff.

Subtitle (V)(L) – Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011

Background

The proposed subtitle is the permanent version of both D.C. Law 18-254, “Not-for-Profit Hospital Corporation Establishment Temporary Amendment Act of 2010,” which expires June 8, 2011, and D.C. Law 18-345, “Not-for-Profit Hospital Corporation Personnel Administration Temporary Amendment Act of 2010,” which expires November 11, 2011. As such, it:

- Sets up the legal framework of the Not-for-Profit Hospital Corporation (“Corporation”), an independent nonprofit corporation of the District. The Corporation is to receive the land, buildings, and capital assets of the United Medical Center (UMC) that were assumed by the District through foreclosure proceedings or as a result of a settlement with UMC’s prior owners;
- Establishes the Not-for-Profit Hospital Corporation Fund (“Fund”), a non-lapsing fund to be comprised of 1) accounts receivable of the Corporation; 2) transferred funds of UMC; and 3) funds obtained through payments from third-party payers, and other sources. Disbursements from the Fund can be used for all purposes related to operating the Corporation, the hospital, and other operations on the site;
- Establishes the size and responsibilities of the Corporation’s Board of Directors and specifies nominating responsibilities for the various seats;
- Directs the Corporation to take necessary actions to continue hospital operations and specifies various responsibilities and governance provisions;
- Exempts assets and income of the Corporation from taxation by the District;
- Authorizes the Corporation to retain independent contractors who deliver hospital services to manage government hospital employees; and
- Exempts the hospital from District personnel law, which otherwise requires all District employees to be supervised by other District employees.

Financial Impact

The proposed subtitle is the permanent version of both D.C. Law 18-254, “Not-for-Profit Hospital Corporation Establishment Temporary Amendment Act of 2010,” which established the Corporation and D.C. Law 18-345, “Not-for-Profit Hospital Corporation Personnel Administration Temporary Amendment Act of 2010,” which authorized the Corporation to retain independent contractors and exempted the hospital from District personnel law. As a result, most of the impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

However, to date, the fiscal impact of exempting the Corporation from taxation has not been recognized. Under current law,⁹⁵ there is an annual assessment on hospitals of \$2,000 per licensed bed only for FY 2011 through FY 2014. These monies are deposited into the Hospital Fund, a non-lapsing account within the General Fund, and are to be used to fund Medicaid services in the District.

⁹⁵ See the Hospital Assessment Act of 2010, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 44-631 *et seq.*).

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Exempting the Corporation from taxation would reduce revenues in the Hospital Fund by \$368,000 annually from FY 2011 through FY 2014. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.⁹⁶

Estimated Fiscal Impact of Subtitle (V) (L) - Not-for-Profit Hospital Corporation Establishment Amendment Act of 2011, FY 2012 - FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four- Year Total
Impact on the Hospital Fund	(\$368,000)	(\$368,000)	(\$368,000)	\$0	(\$1,104,000)

96 The FY 2011 revenue loss would be offset by the proposed increase in the annual per licensed bed assessment on hospitals from \$2,000 per licensed bed to \$2,529 in FY 2011. This increase would be effective immediately upon the enactment of the Fiscal Year 2012 Budget Support Emergency Act of 2011. (See the fiscal impact analysis for Subtitle M of this title.)

Title VI – TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT

Subtitle VI (A) – Department of Motor Vehicles Fee Modification Amendment Act of 2011

Background

The proposed subtitle would increase the replacement fees for a driver’s license, a learner’s or provisional permit,⁹⁷ a non-driver identification card,⁹⁸ and a registration certificate⁹⁹ from \$7 to \$20.

Financial Impact

The increase in replacement fees for a driver’s license, learner’s or provision permit, a non-driver identification card, and registration certificate would generate \$586,000 in FY 2012 and a total of \$2.34 million over the FY 2012 through FY 2015 financial plan period. These funds would be deposited into the General Fund. The impact of the proposed subtitle is already incorporated into the proposed budget and financial plan.

Estimated Fiscal Impact of Subtitle (VI)(A) – Department of Motor Vehicles Fee Modification Amendment Act of 2011 FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
License Replacement Fee ¹	\$420,000	\$420,000	\$420,000	\$420,000	\$1,680,000
ID Replacement Fee ¹	\$86,000	\$86,000	\$86,000	\$86,000	\$344,000
Registration Replacement Fee	\$80,000	\$80,000	\$80,000	\$80,000	\$320,000
Increase to the General Fund	\$586,000	\$586,000	\$586,000	\$586,000	\$2,344,000

Table Note

¹The table assumes that the replacement fees would be implemented on or before October 1, 2011.

Subtitle (VI)(B) – Steel Plate Fee Amendment Act of 2011

Background

The proposed subtitle would amend and simplify the public space permit fee¹⁰⁰ for the use of steel plates in public spaces. The fees would no longer apply to steel plates for the first 5 days in public space and the subtitle would streamline the fees for steel plates in place for 6 days or more.

⁹⁷ By amending the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1401.01(a)(4))

⁹⁸ By amending 18 DCMR § 112.12(b).

⁹⁹ By amending the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 681; D.C. Official Code § 50-1501.02(d)(4)(C))

¹⁰⁰ By amending 24 DCMR § 225.1(p)

Financial Impact

While the provision eliminates the fees for the first five days in public space, streamlining of the fees would improve collections, resulting in no significant changes from the projected collections from steel plate fees. The public space permit fees collected from steel plates are deposited in the General Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VI)(C) – District Department of Transportation Advertisement Amendment Act of 2011

Background

The proposed subtitle would allow¹⁰¹ the District Department of Transportation (DDOT) to sell advertising on DDOT property in public space if the placement of advertisements is not in violation of District or federal laws, regulations, or orders. Any revenue generated would go to the DDOT Enterprise Fund for Transportation Initiatives (“Transportation Initiatives Fund”), a special purpose, non-lapsing account within the General Fund to be used for capital projects.

Financial Impact

DDOT plans to enter into an agreement with advertisers for the Capital Bikeshare program. The revenue generated through advertising on the Capital Bikeshare system is estimated to generate \$500,000 in FY 2012 and a total of \$2 million over the FY 2012 through FY 2015 financial plan period. These funds would be deposited into the Transportation Initiatives Fund.

The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VI)(D) – Bag Fee Compliance Amendment Act of 2011

Background

The proposed subtitle would allow¹⁰² the District Department of the Environment (DDOE) to request and receive the names, addresses, and whether any fees were collected for the \$.05 per disposable carryout bag fee from the Office of Tax and Revenue (OTR). In addition, the proposed subtitle would eliminate the resetting of penalties at the end of a calendar year.

Financial Impact

While OTR can generate such requested lists with its existing resources, OTR’s ability to share taxpayer data is limited by confidentiality rules.

¹⁰¹ By amending the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.04(4)(G))

¹⁰² By amending the Anacostia River Cleanup and Protection Act of 2009, effective September 23, 2009 (D.C. Law 18-55, D.C. Official Code § 8-102 *et seq.*)

Eliminating the calendar year restriction would imply that violators would be fined based on the number of times they'd violated the law rather than the number of violations in a calendar year. This change can potentially increase fee collections by a small, unknown amount. Thus, the proposed subtitle does not have an impact on the FY 2012 through FY 2015 budget and financial plan.

Subtitle (VI)(E) – Department of Parks and Recreation Revenue Generation Amendment Act of 2011

Background

The proposed subtitle would¹⁰³ authorize the Department of Parks and Recreation (DPR) to allow a Friends Group¹⁰⁴ registered under DPR's Park Partner Program to host fundraisers for the benefit of a District park or recreation facility on DPR buildings or grounds. In addition, the proposed subtitle would authorize DPR to receive and spend funds from real estate developers seeking relief from zoning laws by way of the Planned Unit Development (PUD)¹⁰⁵ process and from advertisements and sponsorships promoting healthy lifestyles at recreation sites.

Funds would be authorized to be spent for DPR programs and properties.

Financial Impact

Any funds raised by a Friends Group would be placed into a dedicated bank account in the name of the Friends Group and spent only on the associated park or recreation facility in accordance with the Park Partner Agreement. Friends Groups would be required to provide twice yearly accounting to DPR of all funds collected.

Many PUD projects offer a community benefits package in exchange for greater zoning flexibility on the site known as "proffers." Cash proffers specifically for neighborhood parks would be a source of revenue authorized by this legislation. DPR does not currently receive any such funds. Once implemented, these programs could generate revenues for DPR, but without any specific plans, the potential revenue cannot be estimated at this time.

The proposed subtitle does not have an impact on the FY 2012 through FY 2015 budget and financial plan.

¹⁰³ By amending the Recreation Act of 2004, effective January 13, 1995 (D.C. Law 10-246; D.C. Official Code § 10-301 *et seq.*).

¹⁰⁴ A 501(c)3 organization whose primary mission is to support an adopted park or recreation facility by advocating, fundraising, maintaining, and assisting in the planning process for the park or recreation facility adopted.

¹⁰⁵ A special, multipurpose project where the District's Zoning Commission tailors zoning standards specific to the particular project.

Subtitle (VI)(F) – Department of Transportation Enterprise Fund Amendment Act of 2011

Background

The proposed subtitle would direct¹⁰⁶ specific revenues to the District Department of Transportation (DDOT) Enterprise Fund for Transportation Initiatives (“Transportation Initiatives Fund”). Beginning October 1, 2011, any fines collected from the enforcement of truck safety and size, weight, and noise regulations; advertisements on multispace parking meter receipts or bikeshare stations; public inconvenience fees;¹⁰⁷ fees collected from in excess of \$270,000 in a fiscal year car sharing; loading zone management program revenue, including the commercial permit parking pass costs, commercial permit parking fees, and related citations and fines; and any revenues, grants, or gifts as may from time-to-time be deposited into the Transportation Initiatives Fund.

In addition, the proposed subtitle would eliminate¹⁰⁸ the ceiling for the percentage of local funds that can be used in a given year to match federally funded transportation projects.

Financial Impact

Currently, the fund balance in the Transportation Initiatives Fund is zero. DDOT anticipates generating \$500,000 in advertising revenue in FY 2012 from selling advertising space on the Capital Bikeshare system. This revenue would be deposited into the Transportation Initiatives Fund. Any additional revenue generated through activities identified in the subtitle would also be deposited in the Transportation Initiative Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VI)(G) – Reciprocity Registration Amendment Act of 2011

Background

The proposed subtitle would¹⁰⁹ increase the Reciprocity Permit fee from \$10 to \$50 for congressional, diplomat, military, and presidential appointee reciprocity permits.

Financial Impact

Increasing the fee for Reciprocity Permits would generate \$40,000 in FY 2012 and \$160,000 over the FY 2012 through FY 2015 budget and financial plan period. The revenue will be deposited into the General Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

¹⁰⁶ By amending Section 9e of the Department of Transportation Establishment Act of 2002, effective April 8, 2011 (D.C. Law 18-370; 58 DCMR 662).

¹⁰⁷ As described in 24 DCMR § 225.1(c).

¹⁰⁸ By repealing Section 102(d)(2) of the Highway Trust Fund Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-184; D.C. Official Code 9-111.01(d)(2)).

¹⁰⁹ By amending the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1401.02(d)).

Estimated Fiscal Impact of Subtitle (VI)(G) – Reciprocity Registration Amendment Act of 2011 FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase to the General Fund	\$40,000	\$40,000	\$40,000	\$40,000	\$160,000

Subtitle (VI)(H) – Curbside Parking Protection Amendment Act of 2011

Background

The proposed subtitle would¹¹⁰ increase the fine for the third and any subsequent parking offense in a residential parking zone from \$30 to \$60 in a calendar year. During ballpark events, the fine for each offense would be \$60.

Financial Impact

Increasing the fine for the third and any subsequent parking offense in a residential parking zone would generate \$268,000 in FY 2012 and \$1.12 million over the FY 2012 through FY 2015 budget and financial plan period. The revenue will be deposited into the General Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle (VI)(G) – Curbside Parking Protection Amendment Act of 2011 FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase to the General Fund ¹	\$268,000	\$283,000	\$283,000	\$283,000	\$1,117,000

Table Note

¹The estimate assumes that implementation will cost \$15,000 and would be implemented by October 1, 2012.

Subtitle (VI)(I) – Performance Parking Pilot Zone Amendment Act of 2011

Background

The proposed subtitle would repeal the sunset provision of the Performance Parking Pilot Zone Act of 2008¹¹¹ and add H Street, NE as a new Performance Parking Pilot Zone. In addition, the proposed

¹¹⁰ By amending 18 DCMR §2601.1.

¹¹¹ By repealing Section 2(i) of the Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279; D.C. Official Code § 50-2531(i)).

subtitle would establish the Performance Parking Program Fund ("Fund"), a special purpose, non-lapsing fund to be administered by the District Department of Transportation and would redirect fees collected in Performance Parking Pilot Zones out of the Washington Metropolitan Area Transit Authority (WMATA) subsidy.¹¹² All parking meter revenue collected within the three Performance Parking Pilot Zones would be deposited in the Fund and would be used as follows:

- 20 percent for general purposes to the General Fund;
- Up to 60 percent to repay the cost of procurement and maintenance of new meters and signs in a Performance Pilot Parking Zone;
- Up to 5 percent for meter maintenance and signs in that zone once the cost of meter procurement is paid in full; and
- The remaining balance for non-automobile transportation improvements in that zone.

Finally, the proposed subtitle would add a new category of allowable non-automobile transportation improvements to be made using money from the Fund.

Financial Impact

Adding H Street, NE as a Pilot Zone would allow the Mayor to establish higher parking fees and fines within the Pilot Zone in an effort to regulate the demand for on-street parking. Implementation of the H Street, NE Pilot Zone would require DDOT to erect signs, buy and install meters, and assign additional parking control and traffic control officers to the area. As part of neighborhood agreements to accept higher parking meter rates than other parts of the District, any performance parking meter revenue collected in the H Street, NE Pilot Zone would be dedicated to alternative transportation enhancements within the Pilot Zone.

The proposed subtitle would also clarify that any performance parking meter revenue collected within the three Performance Parking Pilot Zones, which has been accounted separate from other parking meter revenues, would be deposited into the Fund. In FY 2012, the budgeted revenue of \$750,000 and any additional performance parking meter revenue would be directed into the Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VI)(J) – Residential Parking Permit Amendment Act of 2011

Background

The proposed subtitle would¹¹³ increase the one-year Residential Parking Permit (RPP) to \$35 and \$25 for residents 65 years of age or older.

Financial Impact

¹¹² By amending Section 11 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1939, and for other purposes, approved April 4, 1938 (52 Stat. 192; D.C. Official Code § 50-2633(b)).

¹¹³ By amending 18 DCMR § 2415.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Increasing the RPP to \$35 and \$25 for residents 65 years of age or older would generate \$1,958,000 in FY 2012 and \$7,832,000 over the FY 2012 through FY 2015 budget and financial plan period. The current RPP fee is \$15. These are non-tax revenues that are deposited in the General Fund. The impact of the proposed subtitle has already been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle (VI)(I) – Residential Parking Permit Amendment Act of 2011					
FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase to the General Fund ¹	\$1,958,000	\$1,958,000	\$1,958,000	\$1,958,000	\$7,832,000

Table Notes

¹The estimate assumes the fee would be implemented by October 1, 2011 and that District residents 65 and over would pay \$25.

TITLE VII- FINANCE AND REVENUE

Subtitle (VII)(A) – Procedure for Remittance of Hotel Taxes by Online Vendors Act of 2011

Background

The proposed subtitle would provide¹¹⁴ the procedure for collecting the transient accommodations tax¹¹⁵ from online vendors known as room remarketers.¹¹⁶ First, it would require that the transient accommodations tax be based on the net charges and additional charges received by the room remarketer. Second, it would require the room remarketer to collect and remit the transient accommodations tax to the operator who actually provided the accommodation (*i.e.* hotel, inn, tourist camp, etc.). This operator would then be required to file returns and remit the tax to the Office of Tax and Revenue.

D.C. Law 18-364, “Payment of Full Hotel Taxes by Online Vendors Clarification Act of 2010,” which was enacted on January 27, 2011, required that the transient accommodations tax rate be applied to the total amount charged to the transient by the room remarketer, instead of being applied to the amount charged to the room remarketer by the hotel, as was the current practice. This subtitle clarifies the procedure for collecting the tax.

Financial Impact

The proposed subtitle is a procedural change, and does not impact the District’s budget and financial plan. The fiscal impact of D.C. Law 18-364 is already incorporated into the budget and financial plan.

Subtitle (VII)(B) – Prior Fiscal Year Conforming Budget Amendments Act of 2011

Background

The proposed subtitle would amend the Budget Support Acts for fiscal years 2008 and 2011, as well as the Department of Transportation Establishment Act of 2002, to make technical and conforming amendments necessary to implement the proposed fiscal year 2012 budget.

The proposed subtitle would amend the Fiscal Year 2008 Budget Support Act of 2007¹¹⁷ by:

¹¹⁴ Chapters 20 and 22 of Title 47 of the D.C. Official Code.

¹¹⁵ The transient accommodations tax rate is currently 14.5 percent.

¹¹⁶ A room remarketer is defined as “any person, other than the operator of a hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration, having any right, access, ability, or authority, through an Internet transaction or any other means whatsoever, to offer, reserve, book, arrange for, remarket, distribute, broker, resell, or facilitate the transfer of rooms the occupancy of which is subject to tax under this chapter and also having any right, access, ability or authority to determine the sale or charge for the rooms, lodgings, or accommodations.” Examples of room remarketers include Hotels.com, Orbitz, Travelocity, and Expedia.com.

¹¹⁷ Effective September 18, 2007 (D.C. Law 17-20; 54 DCR 7052).

- Repealing the requirement that a minimum funding amount for the Office of Public Education Facilities Modernization's capital budget be included in the budget and financial plan.¹¹⁸ Under current law, capital funding is to be allocated through fiscal year 2010.
- Repealing the dedication of sales tax revenue for the Public School Capital Improvement Fund ("Fund") cited in § 47-2033 of the D.C. Official Code.¹¹⁹ The Fiscal Year 2010 Budget Support Act of 2009 repealed sections (a)(4) through (a)(6) of D.C. Official Code § 47-3502.02, which required the transfer to the Fund; however it did not repeal § 47-2033 which is also necessary to effectuate the repeal. This proposed subtitle would repeal § 47-2033. The impact of the proposed amendment has been incorporated into the budget and financial plan.

The proposed subtitle would amend the Fiscal Year 2011 Budget Support Act of 2010¹²⁰ to make the following modifications:

- Amend the Public Education Finance Reform Commission Reform Act of 2010¹²¹ ("Act") to change the date the Commission is required to deliver their equity report¹²² for fiscal years 2009 and 2010. Current law requires the report to be submitted by January 31, 2011; the proposed subtitle would amend the law to require the report be submitted to the Council and the Mayor prior to the delivery of any final recommendations. The proposed subtitle would also change the date the Commission is required to deliver its final report and recommendations for increasing funding uniformity between DC Public Schools and DC Charter Schools for fiscal year 2013 from June 30, 2011 to November 30, 2011. Amending the dates would have no impact on the District's budget and financial plan.

¹¹⁸ D.C. Official Code § 47-305.02.

¹¹⁹ The law required that approximately \$119.01 million be deposited into the Fund in FY 2011, and each year thereafter, an amount equal to the FY 2011 level increased annually by the cost-of-construction adjustment.

¹²⁰ Effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242).

¹²¹ Section 116 of the Fiscal Year 2011 Budget Support Act of 2011, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 38-2914).

¹²² The detailed equity report would contain the information on:

- (a) The kinds and amounts of payments made directly to DCPS and to the public charter schools from the General Fund of the District of Columbia;
- (b) The kind and amount of any other transfers from the General Fund of the District or District government agencies to DCPS and the public charter schools;
- (c) The kind and value of in-kind services provided to DCPS and the public charter schools by District government agencies; and
- (d) The kind and value of reprogramming of funds from the General Fund of the District of Columbia to DCPS or the public charter schools.

The equity report would also include:

- (1) An analysis of the impact of these payments, transfers, in-kind services, and reprogramming on the uniformity of funding for DCPS and the public charter schools;
- (2) Recommendations for increasing uniformity in the 2013 budget and succeeding years; and
- (3) Weaknesses in the Uniform Per Student Funding Formula Act or in its implementation, if any, that interfere with uniformity of funding.

- Amend the Fiscal Year 2011 Transfer of Special Purpose Funds Act of 2010¹²³ to reverse or revise the amount of special purpose revenue (SPR) that is to be transferred from SPR funds in FY 2011 and FY 2012 to the unrestricted balance of the General Fund. These modifications are necessary as a result of legal impediments or lower than expected revenues. The total amount of funds that would be transferred is already included in the proposed FY 2012 budget and is shown in the table below.

Reduced or Reversed Transfers authorized by the Fiscal Year 2011 Transfer of Special Purpose Funds Act of 2010 (D.C. Law 18-370)						
Special Purpose Account Name	Fiscal Year 2011			Fiscal Year 2012		
	Transfer Under FY 2011 BSA	Transfer Under Proposed FY 2012 BSA	Change in Total Transfer Amount	Transfer Under 2011 BSA	Transfer Under Proposed FY 2012 BSA	Change in Total Transfer Amount
Department of Disabilities Services (JMO)						
Vocational Rehabilitation Service Reimbursement	\$50,000	\$0	(\$50,000)	\$50,000	\$0	(\$50,000)
Office of the Chief Financial Officer (AT0)						
Miscellaneous Revenue Fund	\$1,038	\$0	(\$1,038)	\$1,038	\$0	(\$1,038)
Defined Contribution Plan Admin. fund	\$124,372	\$0	(\$124,372)	\$124,372	\$0	(\$124,372)
Recorder of Deeds Surcharge Fund	\$0	\$125,410	\$125,410	\$0	\$125,410	\$125,410
Department of Human Resources (BEO)						
Defined Benefits Retirement Program	\$5,456	\$0	(\$5,456)	\$5,456	\$0	(\$5,456)
Reimbursable from Other Governments	\$2,952	\$0	(\$2,952)	\$2,952	\$0	(\$2,952)
Department of Mental Health (RMO)						
DMH Federal Beneficiary Reimbursement	\$53,479	\$0	(\$53,479)	\$53,479	\$0	(\$53,479)
Department of Insurance, Securities, and Banking (SRO)						
Securities Broker/Dealer Licenses	\$1,057,314	\$0	(\$1,057,314)	\$1,057,314	\$0	(\$1,057,314)
Banking Trust Fund	\$342,868	\$0	(\$342,868)	\$342,868	\$0	(\$342,868)
Securities and Banking Fund	\$0	\$1,400,812	\$1,400,812	\$0	\$1,400,812	\$1,400,812
TOTAL	\$1,637,479	\$1,526,222	(\$111,257)	\$1,637,479	\$1,526,222	(\$111,257)

¹²³ Section 7052(b) of the Fiscal Year 2011 Budget Support Act of 2010, effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242).

- Amend the Sustainable Capital Investment and Fund Balance Restoration Act of 2010¹²⁴ to change the fiscal year in which the Mayor’s annual proposed budget and financial plan is required to include a Pay-as-you-go Capital Account for the upcoming fiscal year and each subsequent financial plan year from fiscal year 2012 to fiscal year 2013. It would also require¹²⁵ the local funds revenue in the FY 2012 budget and financial plan be used to determine the annual amount of local funds to be deposited in the Pay-as-you-go Capital Account. Current law requires the use of local revenues starting with the FY 2011 budget.

The proposed subtitle would also amend the Fiscal Year 2011 Supplemental Budget Support Act of 2010¹²⁶ to reduce or reverse certain transfers of SPR to the unrestricted balance of the General Fund in FY 2011 and FY 2012. These modifications are necessary as a result of legal impediments or lower than expected revenues. The total amount of funds that would be transferred is already included in the fiscal year 2012 budget and is shown in the table below.

Reduced or Reversed Transfers authorized by the Fiscal Year 2011 Supplemental Budget Support Act of 2010 (DC Law 18-370)						
Special Purpose Account	Fiscal Year 2011			Fiscal Year 2012		
	Transfer Under DC Law 18-370	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount	Transfer Under A18-721	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount
Department of Health (HC0)						
Office of Professional Licensing	\$4,000	\$0	(\$4,000)	\$4,000	\$0	(\$4,000)
Board of Medicine	\$366,000	\$377,000	\$11,000	\$366,000	\$377,000	\$11,000
Civil Monetary Penalties	\$7,000	\$0	(\$7,000)	\$7,000	\$0	(\$7,000)
District Department of the Environment (KG0)						
Renewable Energy Development Fund	\$344,259	\$200,000	(\$144,259)	No Change	No Change	No Change
LUST Trust Fund	\$9,600	\$0	(\$9,600)	\$9,600	\$0	(\$9,600)
Wetlands Fund	\$600	\$0	(\$600)	\$600	\$0	(\$600)
Economy II	\$29,661	\$0	(\$29,661)	\$29,661	\$0	(\$29,661)
Residential Aid Discount	\$19,680	\$0	(\$19,680)	\$19,680	\$0	(\$19,680)
Residential Essential	\$22,080	\$0	(\$22,080)	\$22,080	\$0	(\$22,080)

¹²⁴ Effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 47-392.02(f)(2)).

¹²⁵ By amending D.C. Official Code § 47-392.02(f)(3)) to strike May 26, 2010 and inserting May 24, 2011.

¹²⁶ By amending section 802(a) of the Fiscal Year 2011 Transfer of Special Purpose Funds Act of 2010, effective April 4, 2011 (D.C. Law 18-370).

Reduced or Reversed Transfers authorized by the Fiscal Year 2011 Supplemental Budget Support Act of 2010 (DC Law 18-370)						
Special Purpose Account	Fiscal Year 2011			Fiscal Year 2012		
	Transfer Under DC Law 18-370	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount	Transfer Under A18-721	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount
Services						
WASA Utility Discount Program	\$28,800	\$0	(\$28,800)	\$28,800	\$0	(\$28,800)
Stripperwell	\$7,254	\$0	(\$7,254)	\$7,254	\$0	(\$7,254)
TOTAL	\$838,934	\$577,000	(\$261,934)	\$494,675	\$377,000	(\$117,675)

The proposed subtitle would also amend both the Fiscal Year 2011 Budget Support Act of 2010¹²⁷ and the Fiscal Year 2011 Supplemental Budget Support Act of 2010¹²⁸ to repeal all fiscal year 2013 and 2014 SPR transfers. This would result in a decrease of revenue transferred to the unrestricted balance of the General Fund of approximately \$28.9 million in FY 2013 and \$25.15 million in FY 2014. The total amount of funds that would be transferred is already included in the proposed budget and financial plan.

Finally, the proposed subtitle would amend the Department of Transportation Establishment Act of 2002¹²⁹ to change the amount of revenue from the sales and use taxes collected by the District for parking and storing that is deposited into DDOT's Highway Trust Fund from all revenue in excess of \$30 million to all revenue in excess of \$33 million. Additionally, it would increase the amount of sales and use taxes for parking and storing that would be transferred to the General Fund from \$10.2 million to \$13.2 million in FY 2011 and subsequent years.

The DDOT's Unified Fund is repealed starting in fiscal year 2012 pursuant to the FY 2011 Supplemental Budget Support Act of 2010; thus all revenue dedicated to the Unified Fund will be deposited into the General Fund starting in FY 2012. The impact of the proposed amendment has been incorporated into the proposed budget and financial plan.

Financial Impact

The above technical and conforming amendments are necessary to implement the proposed Fiscal Year 2012 Budget Support Act and the impact of the amendments has already been incorporated in the proposed budget and financial plan.

¹²⁷ Effective September 24, 2010 (D.C. Law 18-223).

¹²⁸ By amending section 802(a) of the Fiscal Year 2011 Transfer of Special Purpose Funds Act of 2010, enacted January 27, 2011 (D.C. Act 18-721).

¹²⁹ Effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 50-921.11(c)(2)).

Subtitle (VII)(C) – Non-Departmental Fund Transfer Notification Act of 2011

Background

The proposed subtitle would require¹³⁰ the Chief Financial Officer (CFO) to notify the Budget Director of the Council of the District of Columbia in writing whenever a reprogramming, transfer, or budget modification of any amount is made involving the Non-Departmental account and the amount and purpose of the reprogramming, transfer, or budget modification.

Financial Impact

There would be no cost for the CFO to make such notifications.

Subtitle (VII)(D) – Lottery Winnings Redemption Amendment Act of 2011

Background

The proposed subtitle would amend the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia¹³¹ to provide that unclaimed prizes for a winning ticket or share be retained by the Lottery and Charitable Games Control Board (“Board”) for the person entitled thereto for 180 days after the drawing in which the prize was won and if no claim is made within the 180-day period, the unclaimed prize funds would be used as follows in FY 2012:

- The first \$150,000 would be used by the Deputy Mayor for Planning and Economic Development (“Deputy Mayor”) to fund Earned Income Tax Credit outreach and marketing efforts for District residents;
- The next \$350,000 would be deposited in the unrestricted balance of the General Fund of the District of Columbia and recognized as fiscal year 2012 revenues;
- The next \$250,000 would be used by the Deputy Mayor to fund cultural activities in the Chinatown community;
- The next \$15,000 would be used to fund the Mayor’s Council on Physical Fitness, Health, and Nutrition; and
- Any subsequent unclaimed prize funds would be used by the Board as additional prizes in lottery games or promotions.

Under current law, the deadline for claiming a prize is one year and any unclaimed prizes go into the General Fund.

Financial Impact

Currently, an average of \$3 million in prizes lapses evenly throughout the fiscal year, as a result of the prizes remaining unclaimed for one year. By shortening the claim period, there would be a one-

¹³⁰ The subtitle would amend Chapter 3 of Title 47 of the D.C. Official Code.

¹³¹ Effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1318).

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

time revenue impact of approximately \$1.5 million in FY 2012 consisting of prizes won but not claimed during the first six months of FY 2012. The Board would transfer this additional revenue to the General Fund where it would be spent in accordance with the above provisions.

The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VII)(E) – First Congregational United Church of Christ Property Tax Abatement Technical Amendment Act of 2011

Background

The proposed subtitle would amend the First Congregational United Church of Christ Property Tax Abatement Amendment Act of 2010 enacted as part of the Fiscal Year 2011 Budget Support Act of 2010 (BSA) to make a technical correction to the list of lots designated exempt from the transfer tax. The BSA subtitle exempted lots known as the First Congregational United Church of Christ property from the real property tax. It also exempted the transfer of certain lots owned by the First Congregational United Church of Christ (“First Congregational”) to 733 10th & G LLC (“733”) from the transfer tax.

The proposed legislation would add to the transfer tax exemption list Lots 837, 7014, and 7011, Square 375 and any other lots created from Lots 823 and 831, Square 375 solely to complete the transaction between First Congregational and 733.

While these lots were part of the First Congregational lots sold to 733 in September 2009, the BSA subtitle erroneously omitted them from the exemption list. This is likely because these lots were created after the lots included in the original legislation were created, and the BSA language was not updated to reflect this.

The BSA subtitle required that \$951,000 of the transfer tax and real property taxes and other related charges assessed against and paid by First Congregational on the real property located on Lots 823 and 831 in Square 375 for the period beginning February 1, 2008 be forgiven and refunded to First Congregational in three equal annual payments of \$317,000 starting in 2011.

Financial Plan Impact

Correcting the lots to be exempted from the transfer tax would not have any fiscal impact as it does not change the amount of refunds to be provided to First Congregational, which have already been accounted for in the District’s financial plan.

Subtitle (VII)(F) – Real Property Transfer Tax Exemption Act of 2011

Background

The proposed subtitle would amend the D.C. Official Code¹³² to exempt from the transfer tax on real property all future transfers of real property to the District that are affected without consideration, made at the request of the District, and conveyed as *bona fide* gifts.¹³³

In addition, for FY 2012, it would require that the Washington Metropolitan Area Transit Authority Fund¹³⁴ redirect Fund Detail 0301 budget allotment and associated budget authority of \$47,850 from Fund project (KEO-SA311C) to the DDOT Bicycle Program project (KAO-ZUT031) to be used as payment for the real property transfer tax for land donated by PEPCO for a bike trail.

On July 18, 2008, PEPCO transferred Lot 0804 in Square 3581 to the District as a gift so that the District could complete a portion of the Metropolitan Branch Pedestrian and Bicycle Trail.¹³⁵ The amount of transfer tax associated with this donation was \$47,850.

Financial Impact

There would be no cost to exempting future transfers of property given as gifts because such transfers are extremely rare according to the Office of the Attorney General and the Department of Real Estates Services.¹³⁶ To their best knowledge, the PEPCO transfer is the only such transfer that has occurred in at least the last four years. The \$47,850 for the transfer tax associated with the PEPCO donation would be paid by the Pay-as-you-go capital budget moved into the DDOT Bicycle Program project. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VII)(G) – Tax Revision Commission Reestablishment Act of 2011

Background

The proposed subtitle would amend current law¹³⁷ to re-establish the Tax Revision Commission (“Commission”) with the purpose of preparing comprehensive recommendations to the Council and

¹³² Section § 47-902, “Enumeration of transfers exempt from tax.”

¹³³ The transfer tax on real property is based upon the consideration paid for the transfer. Where there is no consideration, the tax is based upon the fair market value of the property conveyed. The rate is 1.1 percent of the consideration or fair market value for residential property transfers under \$400,000 and 1.45 percent of the consideration or fair market value on the entire amount for transfers over \$400,000.

¹³⁴ Established by the Washington Metropolitan Area Transit Fund Act of 2006, effective June 16, 2006 (D.C. Law 16-132; D.C. Official Code § 9-1108.01).

¹³⁵ The Metropolitan Branch Pedestrian and Bicycle Trail is an 8-mile trail that runs from Union Station in D.C. to Silver Spring in Maryland.

¹³⁶ A more common form of transferring to the District private land sought after by the District involves land swaps of the privately owned land with a publicly owned parcel. Under this type of transfer, the private party is not required to pay deed transfer or recordation taxes.

¹³⁷ Chapter 4 of Title 47 of the D.C. Official Code.

the Mayor regarding the District's tax structure. Specifically, the Commission would be tasked with: 1) analyzing the District's current tax system in terms of revenue productivity and stability, efficiency, equity, simplicity of administration, and effect upon the District's economy; 2) proposing innovative solutions for meeting the District's projected revenue needs while recommending potential modifications to tax rates; 3) identifying economic activities which are either beneficial or detrimental to the District's economy and which should be either encouraged or discouraged through tax policy; 4) recommending changes in the District's current tax policies and laws; 5) establishing criteria and a conceptual framework for evaluating current and future taxes; and 6) identifying unused and duplicative tax credits and tax abatements and recommend policy changes to improve the way the District utilizes tax expenditures.

The Commission would have to submit its recommendations in the form of a report or reports similar to "Taxing Simply, Taxing Fairly," the report submitted by the 1998 Commission.¹³⁸ The report or reports would need to be accompanied by draft legislation, regulations, amendments to existing regulations, or other specific steps for implementing the recommendations. All of this would be due 9 months after the Commission's appointment.

The Commission would be composed of 10 members and a Chairperson: the Mayor and the Council would each appoint five members and the Chairperson of the Council would appoint the Chairperson. The Chief Financial Officer would be an *ex officio* member. Each member would serve without compensation.

The District established similar Tax Revision Commissions in 1977 and 1996. The 1996 Commission's work greatly informs the below estimate as its scope and tasks were nearly identical to those proposed by this subtitle. One key difference, however, is that the 1996 Commission had two years to carry out their work instead of the proposed 9 months.

Financial Impact

Implementing the proposed subtitle is estimated to cost \$806,667. These represent the costs for: 1) personnel consisting of an Executive Director, Administrative Assistant, and two Drafters; 2) commissioned studies; 3) overhead for the institution the District partners with to carry out the various required tasks;¹³⁹ and 4) publishing.

The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan. The Council has allocated \$198,000 in FY 2011 and \$608,000 in FY 2012 to implement the proposed subtitle. The Commission will be dissolved once its work is complete, and there would not be any additional costs in the following years.

¹³⁸ This report is 587 pages and contains the Summary Report, which details the Commission's recommendations, and the Consultants' Report, which contains 17 research papers and studies from independent consultants commissioned by the Commission.

¹³⁹ The 1996 Commission partnered with the Greater Washington Research Center at the Brookings Institute.

Estimated Cost of the Proposed Tax Commission	
Personnel ¹	\$305,000
Commissioned Studies ²	\$250,000
Overhead ³	\$201,667
Publishing	\$50,000
Total Cost	\$806,667

Table Notes

¹The subtitle would be implemented in July 2011. At that time, an Executive Director and Administrative Assistant would be hired.

²Between July and October 1, 2011, 3/5 of the studies would be commissioned.

³Overhead would equal 25 percent of the total project cost.

Subtitle (VII)(H) – Beulah Baptist Church Tax Relief Act of 2011

Background

The proposed legislation would forgive real property taxes owed between October 1, 2006 through September 30, 2010 on 25 properties owned by the Beulah Baptist Church of Deanwood Heights, the Beulah Community Improvement Association, and the Dix Street Corridor Senior Housing, LP. These properties are legally known as:

- Lot 44 in Square 5228;
- Lots 3 and 4 in Square 5229;
- Lots 23, 811, 813 and 814 in Square 5253;
- Lots 14 and 822 in Square 5262;
- Lots 5, 6, 7, 9, 10, 39, and 40 in Square 5263;
- Lots 31, 33, 34, and 807 in Square 5264; and
- Lots 28, 29, 30, 45, and 54 in Square 5266.

Three of the above-mentioned properties (Lots 29, 30, and 54 in Square 5266) were sold at the Office of Tax and Revenue (OTR) tax sales in 2010 and 2009.¹⁴⁰ Therefore, the bill also requires adequate funds be deposited to the Office of the Chief Financial Officer on behalf of the owner in order to redeem the properties.

Finally, the bill exempts certain properties from the list of blighted properties compiled by the Department of Consumer and Regulatory Affairs (DCRA).¹⁴¹ Properties designated as blighted by DCRA are taxed at the Class 3 real property tax rate of \$10 per \$100 of assessed value.

Financial Plan Impact

The proposed subtitle would result in a fiscal impact of \$502,485 over the FY 2012 through FY 2015 budget and financial plan period.

¹⁴⁰ The 2009 real property tax liabilities for these properties were sold on September 22, 2010 to Capital Bank NA FBO. The 2008 real property tax liability for Lot 54 in Square 5266 was sold to Commercial Equity Partners on December 2, 2009.

¹⁴¹ D.C. Official Code § 42-3131.16.

Forgiving real property taxes owed on the above-mentioned 25 properties for the period between October 1, 2006 and September 30, 2010 would reduce real property collections by approximately \$496,208 in FY 2012.¹⁴²

Additionally, because three properties were sold at OTR tax sales, additional funds would need to be deposited with OTR to reimburse the purchasers for fees incurred in their efforts to assume ownership of the properties. If the proposed legislation is enacted as of June 2011, the total amount of fees owed would be approximately \$6,277.¹⁴³ This is the amount needed to redeem fees incurred by the purchaser of the tax year 2008 tax liability for Lot 54 in Square 5266, and the tax year 2009 tax liabilities for Lots 29 and 30 in Square 5266.¹⁴⁴

None of these properties are classified as blighted, so exempting them from DCRA's blighted property list does not have a fiscal impact. This provision, however, would prevent the District from declaring these properties blighted if the properties were blighted as defined by the D.C. Official Code.

Estimated Fiscal Impact of Subtitle (VII)(H) –Beulah Baptist Church Tax Relief Act of 2011, FY 2012 – FY 2015

	FY 2012	FY 2013	FY 2014	FY 2015	Four Year Total
Real Property Tax Liability ^{1,2}	\$496,208	\$0	\$0	\$0	\$496,208
Additional fees ³	\$6,277	\$0	\$0	\$0	\$6,277
Negative Fiscal Impact	\$502,485	\$0	\$0	\$0	\$502,485

Table Notes:

¹ It is assumed the properties would be redeemed in FY 2012.

² Amount of real property taxes owed (including fees, penalties, and interest) for the period of October 1, 2006 through September 30, 2010.

³ This figure includes reimbursement for the title search fees and attorney's fees incurred by the purchaser for all three properties. If the properties are redeemed after June 2011, the amount of fees owed would be higher.

¹⁴² It is assumed the properties would be redeemed in FY 2012.

¹⁴³ This figure includes reimbursement for the title search fees and estimated attorney's fees incurred by the property owner as of June 2011. According to OTR, to redeem a property, the original property owner must pay back the outstanding tax liability as well as fees incurred by the purchaser of the tax lien. The purchaser is authorized to run a title search on the property four months after purchase. After six months, the purchaser is able to file a claim for foreclosure, at which point attorney fees typically begin to accrue. OTR estimates attorney fees to range from \$3,500 to \$8,000 annually, depending on the law firm.

¹⁴⁴ The tax year 2008 property tax liability for Lot 54 in Square 5266 was sold in 2009 to Commercial Equity Partners. Capital Bank NA FBO purchased the tax year 2009 real property tax liability for Lots 29, 30, and 54 on September 22, 2010. Therefore, to redeem the properties, the property owner would need to reimburse the purchasers for fees incurred on all three properties.

Subtitle (VII)(I) – District of Columbia Official Code Title 29 (Business Organizations) Implementation Amendment Act of 2011

Background

The proposed legislation would significantly revise and update the District of Columbia's Business Organizations Code. The District's current laws concerning business organizations, codified in Titles 29 and 33 of the D.C. Official Code date back to 1870, with major revisions in 1962. The proposed legislation would replace the business laws with the updated uniform law developed by the Uniform Law Commission. Title 29 of the D.C. Official Code would be completely revised to harmonize the law relating to business corporations, nonprofit corporations, professional corporations, general partnerships, limited partnerships, limited liability companies, general cooperative associations, limited cooperative associations, unincorporated nonprofit associations, and statutory trusts, and would provide provisions for mergers, interest exchanges, conversions, and domestications involving these entities.

Specifically, the proposed legislation would reorganize Title 29 of the D.C. Official Code under the following 12 chapters, two of which, chapters 10 and 12, would expand the types of entities required or permitted to make filings into two new types, limited cooperative associations and statutory trusts:

- Chapter 1- General Provisions
- Chapter 2- Entity Transactions
- Chapter 3- Business Corporations
- Chapter 4- Nonprofit Corporations
- Chapter 5- Professional Corporations
- Chapter 6- General Partnerships
- Chapter 7- Limited Partnerships
- Chapter 8- Limited Liability Companies
- Chapter 9- General Cooperative Associations
- Chapter 10- Limited Cooperative Associations
- Chapter 11- Unincorporated Nonprofit Associations
- Chapter 12- Statutory Trusts.

Concerning the relationships between the business entities and the District Government, while most of the existing filing requirements would remain in effect, the proposed legislation would require a list of new filings, expand the requirements for certain filings, and introduce a new biennial reporting requirement for limited partnerships, as required of all other filing business entities.

The proposed legislation would authorize the Mayor to adopt rules, prescribe procedures, and impose civil fines and penalties, and would require the Mayor to establish rules regarding the fees for entity filings. Additionally, the proposed legislation would establish the Corporate Recordation Fund ("Fund") as a proprietary and enterprise fund¹⁴⁵ into which all the fees associated with the

¹⁴⁵ For the purposes of D.C. Official Code § 47-373(1)

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

new Chapters 10 and 12, including expedited filing fees and the fees collected for the enforcement of these chapters, would be deposited.

In conforming amendments, in addition to those regarding the current Title 29, the proposed legislation would repeal the Dissolution and Payment of Debts chapter of Title 33 of D.C. Official Code¹⁴⁶ and the Uniform Limited Partnership Act of 1987.¹⁴⁷

The proposed legislation would take effect on January 1, 2012.

Financial Plan Impact

The proposed legislation would update and streamline business law in the District. No changes are made to current filing fees with the exception of two new types of entities that are allowed to file. However, two new groups of establishments would be subject to filing fees under the proposed legislation. It is estimated that the fee collections from these new types of entities would amount to \$200,000 per year, starting with the effective date of the proposed legislation on January 1, 2012.

Estimated Fiscal Impact of Subtitle (VII)(I)Subtitle – District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2011 FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Personnel Costs ¹	\$110,983	\$110,983	\$110,983	\$110,983	\$443,931
Cost of non-personnel services ²	\$4,017	\$4,017	\$4,017	\$4,017	\$16,069
Modification of the current online corporate filing system	\$456,000	\$0	\$0	\$0	\$456,000
Total Costs	\$571,000	\$115,000	\$115,000	\$115,000	\$916,000
Additional Revenues ³	\$150,000	\$200,000	\$200,000	\$200,000	\$750,000
Net Fiscal Impact	(\$421,000)	\$85,000	\$85,000	\$85,000	(\$166,000)

Table Notes

¹ Two FTEs at DS 9/5 with annual salary of \$47,283 per person, and 17.36 percent benefits.

² Furniture, equipment, computers, phones, and other services as necessary.

³ The proposed legislation would take effect on January 1, 2012. Therefore, the additional revenues in FY 2012 would be expected after the first quarter.

The main cost component of the proposed legislation is related to its implementation. Implementing the legislation would require changes to the online filing system the Department of Consumer and Regulatory Affairs (DCRA) is about to launch. This new online system would need an upgrade to incorporate filing requirements for the two new types of business entities, as well as the other limited set of new and expanded filing requirements. The cost of the software enhancement is estimated to be \$456,000 in FY 2012. DCRA would also need two FTEs to handle the new filing requirements of the proposed legislation. After the initial online system setup, the cost of the proposed changes would be covered by additional revenues. The proposed legislation would generate net positive revenues of \$85,000 per year starting in FY 2013. However, implementation costs would have to be incurred in the first year; thus, the legislation would have a negative fiscal

¹⁴⁶ D.C. Official Code §§ 33-301 to 33-304

¹⁴⁷ D.C. Law 7-49, D.C. Official Code §§ 33-201.01 to 33-211.07

impact of \$421,000 in FY 2012 and \$251,000 over the FY 2012 through FY 2015 budget and financial planning period. The fiscal effect of the proposed subtitle has been incorporated in the budget and financial plan.

Subtitle (VII)(I) – SOME, Inc. and Affiliates Transfer and Recordation Exemption and Equitable Tax Relief Amendment Act of 2011

Background

Current law¹⁴⁸ exempts thirteen properties owned by So Others Might Eat, Inc. (SOME), Affordable Housing Opportunities, Inc. (AHO), or any entity controlled by SOME or AHO (hereafter referred to as “affiliate”) from real property taxation, so long as the properties continue to be owned by SOME, AHO, or one of their affiliates, and are used in accordance with the exemption requirements included in their application for the real property tax exemption. The effective dates of the real property tax exemptions vary, ranging from 2005 to 2010. These properties are currently used to provide housing to low-income or homeless families, elderly, and single adults.

The proposed legislation would amend current law¹⁴⁹ to exempt also SOME, AHO, and their affiliates from deed recordation and transfer taxes, allowing the properties to be transferred among these parties without the payment of these taxes.¹⁵⁰ It would assign the same effective dates of the real property tax exemptions to the recordation and transfer tax exemptions. The bill also would require the District to forgive and refund any taxes, interest, penalties, or fees assessed to these parties as a result of conveying these properties.

Financial Plan Impact

The proposed legislation would reduce local General Fund revenues by \$613,198 in FY 2012. No other impact is expected through the rest of the financial plan period.

The estimated reduction in revenue results from the forgiveness of and refunds for deed recordation and transfer taxes paid or owed by SOME, AHO, and their affiliates on several property transfers involving the lots included in the proposed legislation.¹⁵¹

¹⁴⁸ So Others Might Eat Property Tax Exemption Act of 2008, effective July 18, 2008 (D.C. Law 17-185, D.C. Official Code § 47-1078), provided a real property tax exemption for 11 properties owned by SOME and AHO. Affordable Housing Opportunities Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Act of 2010, effective March 23, 2010 (D.C. Law 18-129, D.C. Official Code § 47-1084), provided a real property tax exemption for two additional lots (Lot 800 in Square 5984 and Lot 916 in Square 5730).

¹⁴⁹ D.C. Official Code §§ 47-1078 and 47-1084.

¹⁵⁰ The intent of some of these internal transfers is to allow SOME, a non-profit entity, to take advantage of Federal Low Income Housing Tax Credit (LIHTC) financing. To take advantage of LIHTC, a non-profit must convert to or create a for-profit subsidiary in order to take advantage of the federal tax credits; however, the non-profit will continue to act as the managing member of the for-profit subsidiary.

¹⁵¹ Thirteen of the fourteen transfers occurred between 2005 and 2010, and according to SOME representatives, Lot 916, Square 5730, located at 2765 Naylor Road, SE is expected to transfer some time in 2011.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Between 2005 and 2010, thirteen property transfers occurred between SOME, AHO, and their affiliates. SOME also plans to transfer Lot 916, Square 5730, located at 2765 Naylor Road SE, sometime in 2011, to one of its affiliates.¹⁵² The total amount of deed recordation and transfer taxes that would be assessed on all of the aforementioned transfers is approximately \$613,198.

The fiscal effect of the proposed subtitle has been incorporated in the proposed budget and financial plan.

Estimated Fiscal Impact of Subtitle (VII)(J)- SOME, Inc. and Affiliates Transfer and Recordation Exemption and Equitable Tax Relief Act of 2011, FY 2012 - FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four Year Total
Total Amount of Deed Taxes to be Forgiven/Refunded ^{1,2}	\$613,198	\$0	\$0	\$0	\$613,198
Total Negative Fiscal Impact	\$613,198	\$0	\$0	\$0	\$613,198

Table Notes:

¹ Between 2005 and 2010, thirteen property transfers occurred where deed recordation and transfer taxes would be assessed under current law. The estimate also accounts for taxes due on one future transfer planned for some time in 2011.

² Assumes refund/forgiveness would be granted in FY 2012. The total amount includes \$433,560 in outstanding taxes and \$179,639 in recordation taxes paid on the transfer of Lot 822 in Square 664 and Lot 815 in Square 5637 that would need to be refunded to SOME.

Subtitle (VII)(K) – Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Amendment Act of 2011

Background

The proposed legislation would freeze¹⁵³ at FY 2009 levels the property taxes for Kelsey Gardens Redevelopment Project, described as Lots 67 and 68, Square 421 in the Shaw neighborhood of Ward Two, provided that the project: 1) contains 54 units of affordable housing for residents making 60 percent or less of current Area Median Income; 2) contains approximately 15,000 square feet of ground level retail space; and 3) has secured a mortgage from the U.S. Department of Housing and Urban Development (HUD).

The proposed tax abatement would expire at the stated maturity date of the mortgage with HUD.¹⁵⁴

¹⁵² Personal Communication, SOME representatives, March 16, 2011.

¹⁵³ By adding a new subsection to D.C. Official Code, Title 47, Chapter 46.

¹⁵⁴ The tax abatement would continue if the mortgage were terminated earlier than the maturity date, as long as use restrictions are met and the project continues to provide the units of affordable housing and retail space.

Financial Plan Impact

The proposed subtitle would reduce real property tax collections by \$3,440 in FY 2012 and by \$501,485 in the FY 2012 to FY 2015 budget and financial plan period.¹⁵⁵ The fiscal effect of the proposed subtitle has been incorporated in the proposed budget and financial plan

Table 1 outlines the impact of the proposed legislation on the District's budget and financial plan.

Estimated Fiscal Impact of Subtitle (VII)(K) Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Act of 2011 FY 2012 - FY 2015					
	FY 2012¹	FY 2013	FY 2014	FY 2015	Four Year Total
Tax Obligation under current law ^{2, 3, 4, 5}	\$100,071	\$100,071	\$100,071	\$580,458	\$880,670
Tax Obligation under (VII)(K)	\$94,185	\$94,185	\$94,185	\$94,185	\$376,740
Value of the Abatement	\$5,886	\$5,886	\$5,886	\$486,273	\$503,931
Funds Budgeted for (VII)(K)	\$2,446				\$2,446
Net Negative Fiscal Impact	(\$3,440)	(\$5,886)	(\$5,886)	(\$486,273)	(\$501,485)

Table Notes:

¹ Per the project representative the groundbreaking will take place in FY 2012. It is assumed that the project would have secured the required HUD mortgage by the start date.

² The assessed value is expected to remain constant at its FY 2010 level through FY 2014.

³ It is assumed that the property would be reassessed to reflect the improvements in FY 2015. The development plan gives the estimated value of the completed project as \$65,000,000.

⁴ The commercial property tax rate is \$1.65 per \$100 of assessed value for the first \$3,000,000 and \$1.85 per \$100 of assessed value for assessed value above \$3,000,000.

⁵The residential property tax rate is \$0.85 per \$100 of assessed value.

Additionally, because the real property tax exemption would last until the maturity date of the mortgage, the proposed legislation would continue to have a fiscal impact beyond the financial plan period. For example, between FY 2016 and FY 2025, the proposed legislation is estimated to reduce property tax collections by an additional \$5.4 million, bringing the total reduction in revenues to \$5.9 million.

¹⁵⁵ This assumes that the project would begin at the beginning of FY 2012 and would have secured a mortgage from the U.S. Department of Housing and Urban Development by the start date.

Estimated Negative Fiscal Impact FY 2016 - FY 2025	
2016	\$495,999
2017	\$505,919
2018	\$516,037
2019	\$526,358
2020	\$536,885
2021	\$547,623
2022	\$558,575
2023	\$569,747
2024	\$581,142
2025	\$592,764
Estimated impact outside the financial plan	\$5,431,048

Subtitle (VII)(L) Allen Chapel A.M.E. Senior Residential Rental Project Tax Relief Act of 2011

Background

The proposed subtitle amends Chapter 10 of Title 47 of the D.C. Official Code to exempt from real property tax Lots 24, 25, 26, 38, 214, 215, 923, 924, and 925¹⁵⁶ in Square 5730, so long as the real properties continue to be owned by Allen Chapel A.M.E. Church or by an entity controlled, directly or indirectly, by Allen Chapel A.M.E. Church, and not used for commercial purposes.

The proposed legislation would also forgive and refund all tax payments made on the aforementioned properties starting January 1, 2006, including all real property taxes, interest, penalties, fees, and other related charges assessed against Allen Chapel A.M.E. Church or by an entity controlled, directly or indirectly, by Allen Chapel A.M.E. Church.

Financial Plan Impact

The proposed subtitle is estimated to reduce real property tax collections by \$148,944 in FY 2011 and \$377,499 over the FY 2012 through FY 2015 budget and financial planning period.

The fiscal effect of the proposed subtitle has been incorporated in the proposed FY 2012 through FY 2015 budget and financial plan. (The total cost of forgiving and refunding the real property taxes (including interest, penalties, and fees) for the period of January 1, 2006 through September 30, 2009¹⁵⁷ had already been incorporated into the approved FY 2010 budget.¹⁵⁸)

¹⁵⁶ Lots 38, 923, and 924 in Square 5730 have been combined to create Lot 218 in Square 5730.

¹⁵⁷ The total cost of the tax refund and exemption for this period was \$474,049.

¹⁵⁸ FY 2010 Proposed Budget and Financial Plan, Volume 1, page 4-21 (updated: September 28, 2009) http://cfo.dc.gov/cfo/frames.asp?doc=/cfo/lib/cfo/budget/2010_9_29/volume_1_-_executive_summary_web.pdf.

Estimated Fiscal Impact for (VII)(L) Allen Chapel A.M.E. Senior Residential Rental Project Tax Relief Act of 2011					
	FY 2012³	FY 2013³	FY 2014^{4,5}	FY 2015^{4,5}	Four Year Total
Estimated Tax Liability for All Properties Under (VII)(L) ^{1,2}	\$63,274	\$105,312	\$60,622	\$62,622	\$291,830
Tax Liability FY 2010 (including penalties & interest)	\$29,422	\$0	\$0	\$0	\$29,422
Tax Liability FY 2011 (including penalties & interest for first half) ⁶	\$56,247	\$0	\$0	\$0	\$56,247
Total Negative Fiscal Impact	\$148,944	\$105,312	\$60,622	\$62,622	\$377,499

Table Notes:

¹ The planned affordable housing development is expected to occur on lot 218 in Square 5730. Currently there are no development plans for the other lots covered in the legislation (lots 24,25, 26, 214, 215, and 925), which are vacant, undeveloped properties.

² Starting in FY 2011, all Lots, except 218 are taxed at the residential rate (class 1) of \$0.85 per \$100. Lot 218 is currently classified as a commercial property and taxed at the class 2 rate of \$1.65 per \$100 of assessed value per the first \$3 million and \$1.85 per \$100 assessed value above \$3 million. It is assumed Lot 218 is taxed at the commercial rate until the development project planned for this lot reaches 65 percent completion; at which time, the lot is rezoned and taxed at the residential rate (class 1) of \$0.85 per \$100 assessed value.

³ Assumes development project reaches 65 percent completion in FY 2012 and 100 percent completion in FY 2013; Estimated project timeline per developers: May 2011 through July 2012.

⁴ The assessed values for FY 2012 and FY 2013 are based on construction costs. In FY 2014, the assessed value is based on the expected net operating income.

⁵ Growth in FY 2014 and FY 2015 assessed values are based on projections for property tax values.

⁶ The total cost of forgiving and refunding property taxes owed for the period of January 1, 2006 - September 30, 2009 was incorporated in the FY 2010 budget.

Additionally, because the real property tax exemption would remain in effect so long as the ownership does not change, the proposed legislation would continue to have a fiscal impact beyond the financial plan period. For example, between FY 2016 and FY 2025, the proposed legislation is estimated to reduce property tax collections by an estimated additional \$700,000, bringing the total reduction in revenues to approximately \$1.077 million.

Estimated Negative Fiscal Impact FY 2016 - FY 2025	
2016	\$63,875
2017	\$65,152
2018	\$66,455
2019	\$67,784
2020	\$69,140
2021	\$70,523
2022	\$71,933
2023	\$73,372
2024	\$74,839
2025	\$76,336
Estimated impact outside the financial plan	\$699,409

Subtitle (VII)(M) – Wayne Place Senior Living Limited Partnership Tax Relief Act of 2011

Background

The proposed legislation would exempt¹⁵⁹ the property described as Lot 45 in Square 6118 and currently owned by Wayne Place Senior Living Limited Partnership (“Wayne Place”)¹⁶⁰ from real property taxation, as long as the property is: 1) owned and maintained by a nonprofit corporation; 2) operated as a nonprofit senior living facility that provides affordable housing to elderly District residents; and 3) not used for commercial purposes. This tax abatement would expire on October 31, 2021. The bill would also allow a portion of the real property to be rented out as long as the rent or other income generated was used for the maintenance and preservation of the property.¹⁶¹ Lastly, if the property were used for any purpose other than a nonprofit senior living facility, the sum of all unpaid property tax, penalties, accruing property tax and 5 percent interest, would have to be paid to the District.

Financial Plan Impact

The proposed subtitle would reduce real property tax collection by \$61,756 in FY 2012 and \$253,775 over the FY 2012 through FY 2015 budget and financial plan. The fiscal effect of the proposed subtitle has been incorporated in the proposed budget and financial plan

¹⁵⁹ By amending Chapter 10 of Title 47 of the D.C. Official Code.

¹⁶⁰ This property, located at 114 Wayne Place, SE, is Wayne Place Senior Living, is a 4-story senior living facility with 56 units that was built in 2004.

¹⁶¹ It is not clear from the legislation whether this portion of the real property allowed to be rented out would be subject to the property tax as provided for under § 47-1005 of the D.C. Official Code. However, according to Council staff, the intent of this provision is to make this portion subject to the property tax.

Estimated Fiscal Impact of Subtitle (VII) (M)					
Wayne Place Senior Living Limited Partnership Real Property Tax Exemption Act of 2011					
	FY 2012³	FY 2013³	FY 2014³	FY 2015	Four Year Total
Reduction in Property Tax Collections ^{1,2}	\$61,756	\$62,868	\$64,000	\$65,152	\$253,775

Table Notes:

¹ Assumes entire property is exempt during the four-year period.

² Assumes the proposed legislation would not take effect until FY 2012.

³ The assessed values for FY 2012 through FY 2014 are based on projections for property tax values.

Additionally, because the real property tax exemption would last until October 2021, the proposed legislation would continue to have a fiscal impact beyond the financial plan period. Between FY 2016 and FY 2020, when the exemption expires, the proposed legislation is estimated to reduce property tax collections by an estimated additional \$335,662, bringing the total reduction in revenues to \$589,437 over the this period.

Estimated Negative Fiscal Impact, FY 2016 - FY 2020	
2016	\$65,803
2017	\$66,461
2018	\$67,126
2019	\$67,797
2020	\$68,475
Estimated impact outside the financial plan	\$335,662

Subtitle (VII)(N) Universal Holiness Church Real Property Tax Relief and Exemption Act of 2011

Background

The proposed subtitle would exempt real property described as Lot 874 in Square 5877, located at 2426 Elvans Road, S.E. in Ward 8, so long as the property continues to be owned by the Universal Holiness Church and is used for religious and educational purposes. The property is currently vacant and subject to the District’s residential real property tax of \$0.85 per \$100 of assessed value. The proposed subtitle would also forgive and refund any taxes, penalties, interest, and fees owed and paid on the property as of June 1, 2009.

Financial Plan Impact

The proposed subtitle would cost approximately \$10,811 in FY 2012 and \$14,631 over the FY 2012 through FY 2015 budget and financial plan. The total cost of forgiving past taxes is \$9,657 in FY 2012. The total cost of exempting the property from real property tax is \$4,974 over the FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle (VII)(N) Universal Holiness Church Real Property Tax Relief Emergency Act of 2011					
	FY 2012	FY 2013	FY 2014	FY 2015	Four Year Total
Tax Liability	\$1,154	\$1,232	\$1,273	\$1,315	\$4,974
Past Tax Liability (2009-2011)	\$9,657				\$9,657
Negative Fiscal Impact	\$10,811	\$1,232	\$1,273	\$1,315	\$14,631

In addition, because the real property tax exemption would be in effect as long as ownership did not change, the proposed legislation would have a fiscal impact beyond the financial plan period. For instance, between FY 2016 and FY 2025, the proposed legislation is estimated to reduce property tax collections by an estimated additional \$14,687.

Estimated Negative Fiscal Impact FY 2016 - FY 2025	
FY 2016	\$1,341
FY 2017	\$1,368
FY 2018	\$1,396
FY 2019	\$1,423
FY 2020	\$1,452
FY 2021	\$1,481
FY 2022	\$1,511
FY 2023	\$1,541
FY 2024	\$1,572
FY 2025	\$1,603
Estimated impact outside the financial plan	\$14,687

Subtitle (VII)(O) – Exemptions and Abatements Information Requirements Act of 2011

Background

The proposed legislation would provide new requirements on properties that request or receive tax exemptions or abatements approved by Council.

First, the legislation would require certain property owners whose properties are currently receiving real property tax abatements or exemptions to file an annual eligibility certification with the Office of the Chief Financial Officer (OCFO) confirming that the property is still being used for the purpose for which the original abatement or exemption was granted. If the OCFO does not receive such a certification from the property owner, the tax abatement or exemption would be terminated.

As part of this certification, the property owner would be required to provide an update on the progress of the community benefits identified in the associated act granting their tax exemption or abatement. Because this second part requires no analysis, findings, or review, the OCFO's role would be solely ministerial to collect this data on the certification form.

Second, the legislation would require any new real property tax or deed recordation tax abatement or exemption proposal that comes to Council to include:

1. The terms of the exemption or abatements,
2. The proposed value of the exemption or abatement,
3. A summary of community benefits provided by recipient, and
4. A financial analysis prepared by the OCFO.

The OCFO's financial analysis will consist of:

1. For existing buildings, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement; and
- 2.. For development projects, a review and analysis of the financing proposal submitted by the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the project could be financed without the proposed exemption or abatement.

If the Chief Financial Officer (CFO) determines it is unlikely that the project could be financed without the proposed exemption or abatement, the CFO would provide an estimate of the amount of exemption or abatement necessary to enable the project to be financed. The CFO would also be required to provide an assessment of the project developer's documentation of efforts to seek alternate financing and opine on the factors that limit the developer's ability to obtain adequate financing.

Financial Plan Impact

Funds are sufficient in the proposed FY 2012 through 2015 budget and financial plan to implement the provisions of the legislation. The proposed legislation would result in increased staffing costs of approximately \$285,371 in FY 2012 and \$1.15 million over the four-year financial plan. These costs include the staff cost of performing the additional OCFO analyses and annual certifications. In addition, the cost estimates allow for commissioning of real estate or construction advisors for the financial analysis, if needed, depending on the size and scope of the project proposed for an exemption or abatement.

Finally, the tax exemption recertification requirement under the proposed subtitle could result in additional revenue if some real property owners currently receiving abatements fail to recertify; however, it is not possible to estimate the amount of revenue, if any, that would be generated as a result.

The impact of the proposed subtitle has been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle (VII)(0) Exemptions and Abatements Approval Information Requirements Act of 2011					
	FY2012	FY2013	FY2014	FY2015	4-Year Total
Estimated Staff and Consultant Compensation ¹	\$285,371	\$286,066	\$286,778	\$287,509	\$1,145,723

TABLE NOTE:

¹Compensation is for two FTEs at level Grade 12 and Grade 13, including fringe benefits (17.65 percent), and an estimated \$100,000 for consultants.

Subtitle (VII)(P) Contingency for Additional Estimated Revenue Act of 2011

Background

If revised revenue estimates issued by the Office of the Chief Financial Officer exceed the amount of revenue incorporated in the FY 2012 budget and financial plan, the proposed subtitle would require these additional revenues be used to fund the priorities detailed in the table below:

Priorities for the Allocation of Additional Estimated Revenue per Subtitle (VII)(P)		
Agency	Funding Priority	Amount
Dept. of Healthcare Finance	Pay for managed care costs for DC's publicly financed health programs	\$32,000,000
Dept. of Health	School Nurse Program	\$12,500,000
Metropolitan Police Dept.	Increase the number of sworn police officers	\$10,800,000
Dept. of Human Services ¹	Housing First Program	\$1,600,000
DC Housing Authority	Local Rent Supplement Program	\$12,000,000
Dept. of Mental Health	Housing, health, and other services for mentally ill individuals and children	\$5,000,000

Priorities for the Allocation of Additional Estimated Revenue per Subtitle (VII)(P)		
Agency	Funding Priority	Amount
Dept. of Human Services	Interim Disability Program	\$3,000,000
Housing Production Trust Fund	Increase Housing Production Trust Fund balance	\$6,000,000
Children and Family Services	Children's mental health programs	\$900,000
Dept. of Human Services	Homeless services	\$2,500,000
Office of the Mayor	Celebration of the 150th Anniversary of Emancipation Day	\$508,000
Commission on the Arts and Humanities	Improvements for Lincoln Theater	\$500,000
DC Public Libraries	Operation of Martin Luther King, Jr. Memorial Library on Sundays	\$316,000
Dept. of Small, Local, and Disadvantaged	Commercial Revitalization Program	\$1,800,000
DC Public Libraries	Book acquisition	\$1,438,000
Office of the State Superintendent	Early childhood education	\$2,000,000
Dept. of Health	Community grant for clinical nutritional home delivery services	\$500,000
	Total Revenue Allocation:	\$93,362,000

Table Note:

¹If the amount required for this item is not available in its entirety; no funds shall be allocated for that purpose.

Financial Plan Impact

The proposed subtitle would not have a negative impact on the FY 2012 through FY 2015 budget, as its implementation is contingent upon available future revenues.

TITLE VIII-REVENUE ENHANCEMENTS

Subtitle (VIII)(A) – Combined Reporting Act of 2011

Background

The Combined Reporting Reform Authorization Act of 2009¹⁶² requires passing legislation that would require all corporations taxable in the District of Columbia to determine the income apportionable or allocable to the District of Columbia by reference to the income and apportionment factors of all commonly controlled corporations organized within the United States, with which they are engaged in a unitary business for tax years beginning after December 31, 2010.

The proposed subtitle is this required legislation.

The subtitle also includes accounting rules that would allow publicly traded companies to take a deduction in the future for the restatement of deferred tax assets and liabilities that they have to recognize now in their financial statements.¹⁶³ Under these proposed rules (which were not a part of the combined reporting legislation that was a part of B19-203 considered by the Council on May 25, 2011), companies would be able to take deductions starting FY 2016 for seven years.

Financial Impact

The fiscal impact of the proposed legislation had been incorporated in the District's budget and financial plan when the Combined Reporting Reform Authorization Act of 2009 was enacted. The current budget and financial plan includes General Fund revenue of \$22.6 million in FY 2012, and \$80.8 million over the four-year financial plan period due to the Combined Reporting reform.¹⁶⁴ The proposed legislation ensures that the then-projected increases in business income tax collections can indeed be realized.

The proposed accounting rules are estimated to reduce revenue collections by \$5 million annually starting FY 2016, for seven years.

¹⁶²Subtitle VII (U) of the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Act 18-203, 57 DCR 181).

¹⁶³ According to the Statement of Financial Accounting Standards #109 (FAS 109), the effects of income taxes resulting from transactions occurring in the current and preceding years must be reported on an entity's financial statement for current and future years. This includes accounting for certain deferred tax liabilities and assets to reflect the future tax consequences of events that have been recognized in a corporation's financial statement or tax return (See Massachusetts Technical Information Release 09-8).

¹⁶⁴ This estimate is based on revenues collected in other states, adjusted for the size and characteristics of the District.

Subtitle (VIII)(B) – Itemized Deduction Limitation Act of 2011

Background

The proposed subtitle would amend the District’s tax code to limit the itemized deductions taxpayers can claim on their tax returns.¹⁶⁵ Specifically, a taxpayer with a District adjusted gross income (AGI) over \$200,000 (\$100,000 in the case of a separate return by a married individual) would be required to reduce itemized deductions by 5 percent of the difference between his or her AGI and \$200,000 (\$100,000, if married, filing separately).¹⁶⁶ For example, under current code, a taxpayer with a District AGI of \$300,000 and itemized deductions of \$50,000 can fully deduct this amount. Under the proposed legislation, the same taxpayer would reduce his or her itemized deductions by \$5,000, which is 5 percent of \$100,000—the difference between the taxpayer’s AGI and \$200,000. Thus under the proposed legislation, the same taxpayer would only be permitted to deduct \$45,000.

Estates and trusts would be exempted from these limitations.

The District now conforms to the federal tax code for itemized deductions (and adds back state and local taxes). Federal tax cuts enacted in 2001¹⁶⁷ approved the gradual repealing of a federal provision¹⁶⁸ that limits itemized deductions. This limitation on the itemized deductions has been incrementally relaxed since tax year 2006, and in tax year 2010, the limitation fully disappeared.¹⁶⁹

Financial Impact

By limiting itemized deductions that taxpayers can claim on their income tax returns, the proposed subtitle would increase General Fund revenue by \$16.72 million in FY 2012 and by \$82.84 million in the four-year financial plan period. The fiscal effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle VIII(B) - Itemized Deduction Limitation Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax revenues ¹	\$16.72	\$20.10	\$22.01	\$24.01	\$82.84

Table Note:

¹The estimate is based on data on District residents’ itemized deductions for tax year 2008.

¹⁶⁵ D.C. Official Code §47-1803.03.

¹⁶⁶ Under the proposed legislation, itemized deductions would exclude deductions relating to medical, dental, etc. expenses as defined in 26 U.S.C. § 213, investment interest deductions as defined in 26 U.S.C. § 163(d), and deductions for casualty or theft losses under 26 U.S.C. § 165(a).

¹⁶⁷ The Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, 115 Stat. 38, June 7, 2001.

¹⁶⁸ 26 U.S.C. § 68(f).

¹⁶⁹ In tax year 2009, the last year for which the federal limitation was still in effect, itemized deductions were reduced by 3 percent of AGI above a threshold that was indexed to inflation (\$166,800 for singles and \$250,200 for married in 2009). Deductions could not be limited by more than 80 percent.

Subtitle (VIII)(C) – The Apportionment of Business Income Act of 2011

Background

The proposed subtitle would amend the District’s tax code¹⁷⁰ to change the calculation used to apportion to the District the net business income of entities that have incomes derived from sources both within and outside of the District. The current formula equally weights property, payroll, and sales factors for the business entity.¹⁷¹ Under the proposed legislation, the sales factor would be weighted twice.^{172,173}

Increasing the weight of the sales factor increases the business income apportionments for the District because the District is generally a destination for sales, and not a producer and exporter of taxable goods and services. Thus, taxable sales constitute a larger share of a company’s taxable transactions compared to real property and payroll, which tend to be larger for manufacturing firms, of which the District has few.

Financial Impact

The proposed legislation will increase General Fund revenue by \$7.23 million in FY 2012 and by \$29.75 million over the four-year financial plan period. The fiscal effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle VIII(C) - The Apportionment of Business Income Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax revenues ¹	\$7.23 ²	\$7.38	\$7.50	\$7.64	\$29.75

Table Notes:

¹The estimate is based on data from corporate and unincorporated business income tax returns for tax year 2008.

² Assumes that the proposed change is effective starting January 1, 2011.

¹⁷⁰ D.C. Official Code § 47-1810.02(d).

¹⁷¹ The factor for each of these areas is the share of District tax payments in the total tax payments. For example, let *S* stand for the sales factor, *S_{DC}*, sales tax payments to D.C., and *S_{OTHER}* for sales tax payments to all other jurisdictions from where the entity derives income. The sales factor is calculated as $S = \frac{S_{DC}}{S_{DC} + S_{OTHER}}$.

¹⁷² Let *A_{DC}* stand for business income apportioned to DC, and *P*, *PR*, and *S* stand for property, payroll, and sales factors respectively. Under current law, the apportionment formula is $A_{DC} = \frac{P + PR + S}{3}$, and under proposed legislation, the apportionment formula would be $A_{DC} = \frac{P + PR + 2S}{4}$.

¹⁷³ Twenty four states use an apportionment method that weights sales more heavily, or provide this method as an option to the taxpayer. Twelve states use only sales as the apportionment factor. Virginia, for example, uses a double-weighted sales factor, and Maryland allows either double-weighted or single sales factor.

Subtitle (VIII)(D) – Sales Tax Act of 2011

Background

The Revenue Enhancement Act of 2009¹⁷⁴ increased the tax on general sales from 5.75 percent to 6 percent for fiscal years 2010 through 2012. The proposed subtitle would amend the District’s tax code¹⁷⁵ to make this increase permanent.

Additionally, the proposed subtitle would include in the sales tax base¹⁷⁶ transactions related to armored car services, private investigation services, and security services.¹⁷⁷

Financial Impact

Permanently setting the general sales tax rate to 6 percent will not have an effect in FY 2012 (since under current law, the general sales tax rate for FY 2012 is already at 6 percent), but it would increase General Fund revenues by \$48.39 million in the four-year financial plan period. Including armored car, private investigation, and security services in the general sales base will increase General Fund revenues by \$4.87 million in FY 2012 and \$20.48 million in the four-year financial plan period. The fiscal effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle VIII(D) - Sales Tax Act of 2011					
FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Sales tax rate at 6 percent ¹	\$0.00	\$15.89	\$16.09	\$16.40	\$48.39
Tax armored car, private investigation, and security services ²	\$4.87	\$5.00	\$5.20	\$5.41	\$20.48
Total increase in sales tax revenues	\$4.87	\$20.89	\$21.29	\$21.81	\$68.87

Table Notes

¹ Based on estimated general sales and use tax revenue collections.

² Based on Economic Census data on the sales of such security related services.

¹⁷⁴ Subtitle VII (V) of the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Act 18-203, 57 DCR 181).

¹⁷⁵ D.C. Official Code §47-2002.

¹⁷⁶ *Ibid.*

¹⁷⁷ Reimbursements of incidental expenses paid to a third party and incurred in connection with providing a taxable private detective service are excluded.

Subtitle (VIII)(E) – Parking Tax Enhancement Act of 2011

Background

The proposed subtitle would amend the District’s tax code¹⁷⁸ to increase the parking tax rate from 12 percent to 18 percent, effective July 1, 2011. Under current law, parking tax collections are dedicated to the Washington Metropolitan Area Transportation Authority (WMATA).

Financial Impact

The proposed legislation will increase parking tax revenue, which are dedicated to WMATA, by \$18.24 million in FY 2012 and by \$78.33 million in the four-year financial plan period. The fiscal effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle VIII(E) – Parking Tax Enhancement Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in parking tax revenue ¹	\$18.24	\$19.12	\$20.03	\$20.93	\$78.33

TABLE NOTE

¹The estimate is based on estimated parking tax collections.

Additionally, because the proposal is effective July 1, 2011, parking tax collections will increase by \$3.04 million in FY 2011.

Subtitle (VIII)(F) – Cigarette Sales Tax Enhancement Act of 2011

Background

The proposed subtitle would amend the District’s tax code¹⁷⁹ to impose a surcharge of 36 cents per pack¹⁸⁰ on cigarettes at the wholesale level, and exempt cigarettes from sales tax at the retail level.

36 cents is the equivalent of a 6 percent sales tax on a pack of cigarettes sold at an average price of \$6.¹⁸¹ The provision would require that this surcharge be recalculated annually (starting March 31, 2012) to reflect the change in the average price of cigarettes.

¹⁷⁸ D.C. Official Code § 47-2002(1).

¹⁷⁹ Chapter 24 (“Cigarette Taxes”) of Title 57 of D.C. Official Code, and D.C. Official Code § 47-2001(n)(2).

¹⁸⁰ The thirty-six cents rate applies to a pack of 20 or fewer cigarettes. If a pack has more than 20 cigarettes, this surcharge will increase by 1.8 cents per cigarette.

¹⁸¹ Similarly, 1.8 cents is the per cigarette sales tax calculated at 6 percent for a pack of 20 sold at \$6.

Financial Impact

While the tax rate would not change under the proposed legislation, replacing a retail level sales tax with a wholesale level tax is expected to increase tax collections because it avoids leakage at the retail level¹⁸² and simplifies administration since there are fewer taxpayers at the wholesale level.

Estimated Fiscal Impact of Subtitle VIII(F) – Cigarette Sales Tax Enhancement Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Eliminate retail level sales tax ¹	(\$4.32)	(\$4.26)	(\$4.19)	(\$4.13)	(\$16.90)
Impose wholesale level surcharge ²	\$5.40	\$5.32	\$5.24	\$5.16	\$21.12
Net impact on General Fund	\$1.08	\$1.06	\$1.05	\$1.03	\$4.22

TABLE NOTES

¹Assumes retail price would not change significantly—the estimate for retail sales tax losses is based on a retail price of \$6 per pack of 20.

²Estimated impact of the wholesale level surcharge is based on an analysis of cigarette excise tax collections.

In FY 2012, for example, exempting cigarettes from the sales tax at the retail level would decrease General Fund revenue by \$4.32 million, while the proposed surcharge at the wholesale level would increase revenue by \$5.40 million, generating a net General Fund revenue increase of \$1.08 million. In the four-year financial plan period, the General Fund revenue is expected to increase by \$4.22 million. The fiscal effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Subtitle (VIII)(G) – Tax Penalty Safe Harbor Act of 2011

Background

Under current law, any taxpayer who has paid estimated payments equal to 100 percent of his or her prior tax liability does not get assessed an underpayment penalty when the taxpayer’s current year liability exceeds estimated payments. The proposed subtitle would amend the District’s tax code¹⁸³ to increase this penalty-free “safe harbor” to 110 percent of the taxpayer’s prior year liability. The provision would be effective starting tax year 2012.

Financial Impact

The proposed subtitle would increase General Fund revenue by \$15 million in FY 2012 and by \$16.80 million in the four-year financial plan period. During FY 2012, given the expectations of economic growth, taxpayers would increase their estimated payments to avoid a penalty.¹⁸⁴

¹⁸² Sales tax collections would suffer if the retailer goes out of business, or because of employee theft, or owner usage, whereas the surcharge would not be affected by such actions.

¹⁸³D.C. Official Code § 47-4214(b)(1)(B)(ii) and § 47-4214(b)(1)(B)(iii).

¹⁸⁴ This projection is based on the behavioral assumption that taxpayers value the insurance of safe harbor.

Starting the next fiscal year, however, the increases in estimated payments would be counterbalanced by lower final payments. The fiscal impact of the proposed subtitle is already incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle VIII(G) – Tax Penalty Safe Harbor Act of 2011, FY 2012 - FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax collections ¹	\$15.00	\$0.60	\$0.60	\$0.60	\$16.80

TABLE NOTE

¹Estimate is based on an analysis of 2008 D.C. income tax records.

Subtitle (VIII)(H) – Minimum Corporate and Unincorporated Franchise Tax Payable Act of 2011

Background

The proposed subtitle would amend the District’s tax code¹⁸⁵ to increase the minimum franchise tax paid by corporations and unincorporated businesses, effective December 31, 2010. Under current law, corporations and unincorporated businesses pay a minimum tax of \$100 if their income tax obligation, calculated on the income tax form, is less than \$100. Under the proposed legislation, a corporation or an unincorporated entity would be required to pay a minimum income tax of \$250 if its gross receipts are less than or equal to \$1 million, and \$1,000 if its gross receipts are greater than \$1 million.

District data for tax year 2008 shows that 66 percent of corporations and 64 percent of unincorporated businesses paid the minimum tax liability of \$100.¹⁸⁶

Financial Impact

The proposed subtitle will increase General Fund revenue by \$12 million in FY 2012 and \$48 million in the four-year financial plan period. The fiscal impact of the proposed subtitle is already incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle VIII(H) – Minimum Corporate and Unincorporated Franchise Tax Payable Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax revenue ¹	\$12.00	\$12.00	\$12.00	\$12.00	\$48.00

TABLE NOTE

¹Estimate is based on data from tax year 2008 on the number of business entities that paid the minimum franchise fee, and the gross receipts of these entities.

¹⁸⁵ D.C. Official Code § 47-1807.02(b) and § 47-1803.03(b).

¹⁸⁶ This minimum has been unchanged since 1983.

Subtitle (VIII)(I) – Bank Account Tax Offset Act of 2011

Background

The proposed subtitle would require¹⁸⁷ that a District bank or financial institution disclose to the Office of Tax and Revenue (OTR), up to four times a year, any bank account¹⁸⁸ asset information of a delinquent taxpayer with holdings in that bank or financial institution. OTR would use this information to identify delinquent taxpayers with assets available for settling outstanding tax liability.

Financial Impact

By improving collections from delinquent taxpayers, the proposed subtitle will increase income tax revenue by \$3 million in FY 2012 and \$27 million in the four-year financial plan period. The fiscal impact of the proposed subtitle is already incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle VIII(I) – Bank Account Tax Offset Act of 2011					
FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax collections ¹	\$3.00 ²	\$8.00	\$8.00	\$8.00	\$27.00

TABLE NOTES

¹ Estimate based on estimated outstanding tax liability

² Assumes that the proposal is fully implemented by January 1, 2012.

Subtitle (VIII)(I) – Standard Deduction Withholding Exclusion Act of 2011

Background

The proposed subtitle would amend the District’s tax code¹⁸⁹ to require that employers exclude standard deductions from their withholding calculations, starting January 1, 2012. As a result, employers would have to withhold a higher amount of District income taxes from each employee’s paycheck.

Financial Impact

The proposed subtitle will increase income tax collections by \$40.95 million in FY 2012 and \$49.73 million in the four-year financial plan period. The collections severely decline after the first year

¹⁸⁷ By adding a new subsection § 47-4481 to Chapter 44 (“Collections”) of Title 47 of D.C. Official Code.

¹⁸⁸ The accounts subject to the requirements of this proposed subtitle include those with funds from a demand deposit account, checking account, negotiable order of withdrawal account, savings account, time deposit account, money market mutual fund account, or certificate of deposit account. Accounts that are pledged to debt service, to which the delinquent payer has limited or shared access, or to which the financial institution has a present right to exercise a right of setoff, would be excluded from the requirements of the proposed provision.

¹⁸⁹ D.C. Official Code § 47-1812.08.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

because the higher withholdings for a given tax year would be counterbalanced by a similar amount of deductions in the taxpayers' tax returns for the previous year's withholding. The fiscal impact of the proposed subtitle is already incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle VIII(j) - Standard Deduction Withholding Exclusion Act of 2011 FY 2012 - FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax collections ^{1,2}	\$40.95	\$5.22 ³	\$1.78	\$1.78	\$49.73

TABLE NOTES

¹ Assumes 210,000 employees would be affected by the proposal.

² Estimate based on a standard deduction of \$4,000 in tax year 2012 and estimated \$4,350 in tax year 2013. For out-years, the standard deduction is assumed to grow at the level of inflation.

³ Because of the change in the standard deduction in tax year 2013 as stipulated by D.C. Official Code, there is a smaller one-time withholding effect in FY 2013.

Subtitle (VIII)(K) – Determination of Calculated Rate for Fiscal Year 2012 Act of 2011

Background

The Small Business Commercial Property Tax Relief Act of 2008¹⁹⁰ ("Relief Act") requires that, starting October 1, 2009, the real property tax rate on assessed value of up to \$3,000,000 on Class II property would be recalculated should the total real property tax revenues from Class II property exceed the previous fiscal year's collections by more than 10 percent. Under this provision, the current tax rate of \$1.65 per \$100 of assessed value could go down, but no lower than 90 cents on \$100 of assessed value. The proposed subtitle suspends this calculated rate¹⁹¹ in Fiscal Year 2011, and fixes the tax rate on the assessed value of up to \$3 million dollars to \$1.65 per \$100 of assessed value.

Financial Impact

The rate calculations required by the Small Relief Act are based on the second quarter revenue estimates that are usually issued in June. Thus, current revenue projections, on which the proposed budget and financial plan is based, do not take into account the impact of a potential reduction in the real property tax collections because of the calculated rate.

Subtitle (VIII)(L) – Withholding Tax on Distributions from Retirement Accounts Act of 2011

Background

The proposed subtitle would amend the District's tax code¹⁹² to allow withholding of District tax at the highest income tax rate on early distributions residents receive from various retirement accounts, so long as the said distributions are subject to mandatory withholding of federal income tax.

Retirement accounts affected by the proposed legislation include qualified employee plans, qualified employee annuity plans, defined contribution plans, tax sheltered annuity plans, individual retirement accounts, hybrid of two or more of these plans, or any similarly situated plan as defined by § 3405 of the Internal Revenue Code.

Under current law, no amount is withheld for D.C. taxes from early distributions.

Financial Impact

The proposed legislation will increase income tax collections by \$9 million in FY 2012 and by \$11.16 million over the four-year financial plan period. Collections starting in FY 2013 are lower because the increased revenue from withholdings would be counterbalanced by deductions taken for the previous year's withholding.

¹⁹⁰ Effective March 20, 2008 (D.C. Law 17-123; D.C. Official Code § 47-812(b-9)(2)(A)(i)).

¹⁹¹ By amending § 47-812(b-9)(2)(A)(i).

¹⁹² D.C. Official Code § 47-1812.08.

The effect of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle VIII(L) – Withholding Tax on Distributions from Retirement Accounts Act of 2011 FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax collections ¹	\$9.00	\$0.72	\$0.72	\$0.72	\$11.16

TABLE NOTES

¹The estimate is based on a microsimulation model of individual income taxpayers and assumes that the legislation is effective January 1, 2012.

Subtitle (VIII)(M) – Off-premise Alcohol Act of 2011

Background

The proposed subtitle would amend the Alcohol Beverage Regulations¹⁹³ to extend allowable hours for alcohol sales for off-premise consumption by two additional hours to end at midnight, effective July 1, 2011. Current law permits off-premise alcohol sales until 10 p.m. every day. The subtitle would also amend the District’s tax code¹⁹⁴ to increase sales tax on all off-premise alcohol sales from 9 percent to 10 percent, also effective July 1, 2011.

Financial Impact

The proposed subtitle would increase General Fund revenue by \$5.26 million in FY 2012, and \$21.93 million during the four-year financial plan period.

Extending off-premise sales by two hours daily is expected to generate \$2.37 million in FY 2012, and \$9.46 million in the FY 2012 through FY 2015 financial plan period. This is because extended sales hours would increase the amount of alcohol sales, and therefore the tax collections from such sales.¹⁹⁵ These collections would be deposited to the unrestricted portion of the local General Fund. Increasing the general sales tax rate by one percentage point from 9 percent to 10 percent would increase General Fund revenue by \$2.89 million in FY 2012 and \$12.47 million in the four-year financial plan period. The impact of the proposed subtitle is already incorporated into the proposed budget and financial plan.

¹⁹³ D.C. Official Code § 25-722.

¹⁹⁴ D.C. Official Code § 47-2002(3A).

¹⁹⁵ Alcohol sold in the District generates revenue in two ways. First, holders of a manufacturer's or a wholesaler’s license pay an excise tax on all alcoholic beverages. This is a tax on volume, usually measured by the gallon. Current tax rates are \$2.79 per 31-gallon-barrel for beer, 30¢ per gallon for light wine (14 percent alcohol or less), 40¢ per gallon for heavy wine (over 14 percent alcohol), 45¢ per gallon for Champagne and sparkling wine, and \$1.50 per gallon for spirits. Second, consumers pay a general sales tax of 9 percent on the sale price of all alcohol purchased for off-premise consumption. Increases in general sales tax collections would constitute the bulk of the annual revenue increase from expanded hours; excise tax collections are expected to increase only marginally, by about \$6,000.

Estimated Fiscal Impact of Subtitle (VIII)(M) – Off-Premise Act of 2011 FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Additional Off-premise hours	\$2.37	\$2.37	\$2.37	\$2.37	\$9.46
Sales tax rate at 10 percent	\$2.89	\$3.06	\$3.21	\$3.31	\$12.47
Total increase in revenues ¹	\$5.26	\$5.42	\$5.57	\$5.68	\$21.93

TABLE NOTE

¹Estimates are based on data on current tax collections and alcohol consumption in the District.

Additionally, because the provision would be effective July 1, 2011, it is estimated to generate \$876,133 of additional General Fund revenue in FY 2011.

Subtitle (VIII)(N) – Community Benefits Fund Amendment Act of 2011

Background

The proposed subtitle would make Section 202 of the Ballpark Omnibus Financing and Revenue Act of 2004,¹⁹⁶ which creates the Community Benefits Fund, subject to the inclusion of its fiscal effect in an approved budget and financial plan. Transfers to the Community Benefits Fund of real property and sales tax incremental revenue collected in the DC Ballpark TIF area were suspended by past legislation through FY 2013. This provision would indefinitely suspend these transfers.

Financial Impact

As a result of this subtitle, beginning in FY 2013, real property and sales tax incremental revenue collected in the DC Ballpark TIF area would be deposited into the General Fund and would not be transferred to the Community Benefits Fund. The amount of such transfers is not known at this time.

Subtitle (VIII)(O) – Opening Hours Act of 2012

Background

The proposed subtitle would allow¹⁹⁷ restaurants, hotels, bars and other on-premise consumption establishments to sell alcohol beginning at 8:00 a.m. on Sundays. Under current law, they can't start selling alcohol until 10 a.m. It also would require that \$460,000 in sales tax revenue be used to fund

¹⁹⁶ Effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1602.02).

¹⁹⁷ By amending § 25-723(b)(3) of the D.C. Official Code.

the Reimbursable Detail Subsidy Program (“Subsidy Program”) in the Alcoholic Beverage Regulation Administration (ABRA).¹⁹⁸

Financial Impact

Extending the number of hours on-premise establishments could sell alcohol on Sunday by two hours would increase revenues from sales and excise taxes by \$464,000 in FY 2012 and \$1.86 million over the FY 2012 through FY 2015 financial plan period. This is because extended sales hours would increase the amount of alcohol sales, and therefore the tax collections from such sales.¹⁹⁹ In addition, the proposed subtitle would require that every year, \$460,000 in sales tax revenue be used to fund the Subsidy Program. As a result, the net fiscal impact of this subtitle would be \$4,000 in FY 2012 and \$16,000 over the FY 2012 through FY 2015 financial plan period. The fiscal impact of the proposed subtitle is already incorporated into the proposed budget and financial plan.

Estimated Fiscal Impact of Subtitle (VIII)(O) - Opening Hours Act of 2011 FY 2012 - FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increased tax collections ¹	\$464,000	\$464,000	\$464,000	\$464,000	\$1,856,000
Funding of Subsidy Program with Sales Tax Revenue	(\$460,000)	(\$460,000)	(\$460,000)	(\$460,000)	(\$1,840,000)
Net Fiscal Impact	\$4,000	\$4,000	\$4,000	\$4,000	\$16,000

TABLE NOTE

¹Estimate based on data on current tax collections and alcohol consumption in the District.

¹⁹⁸ This program, which was created in 2008, provides “an assignment of [off-duty] MPD officers to patrol the surrounding area of an establishment for the purpose of maintaining public safety, including the remediation of traffic congestion and the safety of public patrons, during their approach and departure from the establishment,” but does not allow an officer to enter a licensee establishment unless there is evidence or allegation of a crime within the establishment. ABRA entered into a memorandum of understanding with MPD under which MPD would be reimbursed 50 percent of the cost incurred by licensees for hiring reimbursable details. The Mayor’s proposed FY 2012 budget eliminates all funding for this program.

¹⁹⁹ Alcohol sold in the District generates revenue in two ways. First, holders of a manufacturer’s or a wholesaler’s license pay an excise tax on all alcoholic beverages. This is a tax on volume, usually measured by the gallon. Current tax rates are \$2.79 per 31-gallon-barrel for beer, 30¢ per gallon for light wine (14 percent alcohol or less), 40¢ per gallon for heavy wine (over 14 percent alcohol), 45¢ per gallon for Champagne and sparkling wine, and \$1.50 per gallon for spirits. Second, consumers pay a general sales tax of 10 percent on the sale price of liquor sold for consumption on the premise. Increases in general sales tax collections would constitute the bulk of the annual revenue increase from expanded hours; excise tax collections are expected to increase only marginally.

Subtitle (VIII)(P) – Interest Earned on Out-of-State Bonds Act of 2011

Background

The proposed subtitle would make²⁰⁰ interest income earned on out-of-state bonds²⁰¹ held by D.C. taxpayers subject to taxation. Bonds issued by the Washington Airport Authority would be exempt from this requirement.

The subtitle also would require that interest income earned on out-of-state bonds purchased by D.C. taxpayers before October 1, 2011 would not be subject to taxation, should there be additional certified FY 2012 revenues sufficient to replace the income tax revenue from such bonds, per the requirements of Subtitle VII(Q) of the Fiscal Year 2012 Budget Support Act of 2011.

Financial Impact

Including income earned on out-of-state bonds held by D.C. taxpayers in the income tax base would increase revenues by \$13.41 million in FY 2012 and \$101.61 million in the four-year financial plan period. The impact of the proposed subtitle is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

Estimated Fiscal Impact of Subtitle (VIII)(P) – Interest Earned on Out-of-State Bonds Act of 2011 FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increased tax collections ¹	\$13.41	\$28.29	\$29.48	\$30.42	\$101.61

TABLE NOTE

¹Estimate based on the Joint Committee on Taxation’s estimates for state/local bond interest prepared for the federal tax expenditure report issued on January 11, 2010.

The bulk of the projected revenue is estimated to be generated from the taxation of interest income from out-of-state bonds already held by D.C. taxpayers. Income tax revenue from out-of-state bonds purchased by D.C. taxpayers after October 1, 2011 is estimated to generate \$1.32 million annually starting in FY 2013.

Subtitle (VIII)(Q) – Internet Sales Tax Act of 2011

Background

The proposed subtitle would amend Chapter 20 (Gross Sales Tax) of Title 47 of the D.C. Official Code by modifying definitions in order to clarify that purchases of goods or services made via the internet from vendors that have a physical presence in the District (known as “nexus”) are subject to the sales tax.

²⁰⁰ By amending § 47-1803.02(a) of the D.C. Official Code.

²⁰¹ This term is used to mean the obligations of a state, territory of the United States, or any political subdivision thereof, but not including the District.

Financial Impact

Such purchases are already subject to the sales tax and thus, the proposed subtitle would not have any impact on the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (VIII)(R) – District of Columbia Main Street Tax Fairness Act of 2011

Background

The proposed subtitle would require “remote-vendors”—vendors that sell goods or services via the internet to purchasers in the District and that may or may not have a physical presence in the District—to collect “remote sales tax”²⁰² on all purchases made via the internet by individuals in the District. Vendors that have a to-be-determined low level of gross receipts from internet sales to purchasers in the District would be exempted from this requirement.

It also would require the District to establish: 1) a registry of remote-vendors; 2) appropriate protections for consumer privacy; 3) a means for a remote-vendor to determine the current District sales and use tax rate and taxability; 4) a formula and procedure that permits a remote-vendor to deduct reasonable expenses for certain items; 5) the date that the collection of remote sales tax would commence; 6) a small-vendor exemption; 7) products and types of products that would be exempted from the remote sales tax; 8) rules; and 9) a plan to substantially reduce the administrative burdens associated with sales and use taxes, including remote sales taxes.

Financial Impact

Currently, it is not legally permissible in the U.S. for a state to collect sales tax on internet purchases made in their state from vendors that do not have a physical presence there.²⁰³ The Supreme Court ruled in *Quill Corp. v. North Dakota*²⁰⁴ that a seller is not required to collect sales taxes for a taxing jurisdiction unless the seller has “substantial nexus” (or physical presence) with the state.²⁰⁵

There have been efforts at the federal level to make this practice legal, such as with H.R. 5660, Main Street Fairness Act of 2010, which was introduced in July 2010. However, this Act, if enacted, would

²⁰² Defined as “District sales and use taxes when applied to a property or service sold by a vendor via the internet to a purchaser in the District.”

²⁰³ Arkansas, Colorado, New York, North Carolina, Rhode Island and most recently Illinois have tried to partially overcome this by passing legislation that expands the definition of nexus to include having a relationship with affiliates that have a physical presence in the state. Such affiliates place links on their websites to the out-of-state retailer’s site and receive a commission when someone follows the link and buys something from the retailer. Such laws are often referred to as Amazon laws since Amazon is one of the largest online retailers utilizing the affiliate business structure. Under the bills, Amazon would have to collect sales tax on all purchases made within a state where they have affiliates and not just on those purchases directly related to the referral. Amazon is suing New York and has stopped its affiliate program in these states.

²⁰⁴ 504 U.S. 298; 112 S. Ct. 1904; 119 L. Ed. 2d 91 (1992).

²⁰⁵ This originally was in regards to mail-order purchase and purchases made via the telephone since the internet did not really exist at the time of decision. Its decision now also covers internet sales.

not simply provide states with the authority to require vendors without nexus to collect sales tax on internet purchases; it also would require that states sign onto the multistate Streamlined Sales and Use Tax Agreement (SSUTA) and adopt legislation implementing its provisions in order to exercise the authority. SSUTA requires states to adhere to uniform product definitions, adopt uniform requirements for filing sales tax returns, administer both state and local sales tax collection through a single state office, and allow retailers to register through a centralized, one-stop multistate registration system. The proposed subtitle does not contemplate SSUTA or anything remotely as complex.

The general consensus is that such efforts at the federal level will not be successful for the foreseeable future. As a result, there is little, if any, likelihood that this subtitle would be implemented in the FY 2012 through FY 2015 budget and financial plan period. Thus, no revenue can be recognized at this time from the implementation of the proposed subtitle.

Subtitle (VIII)(S) – Hospital Assessment Amendment Act of 2011

Background

The proposed subtitle would amend the Hospital Assessment Act of 2010²⁰⁶ to increase the annual assessment on hospitals from \$2,000 per licensed bed in FY 2011 through FY 2014 to \$2,529 per licensed bed in FY 2011 and \$3,788 per licensed bed in FY 2012 through FY 2014. Under current law, this assessment expires at the end of FY 2014.

Financial Impact

Implementation of the proposed subtitle is estimated to increase revenues by \$7.2 million in FY 2012 and by \$21.5 million over the FY 2012 through FY 2015 budget and financial plan period. Additionally, FY 2011 revenues are expected to increase by \$2.1 million.²⁰⁷ These revenues would be deposited into the Hospital Fund, a non-lapsing account within the General Fund used to fund Medicaid services in the District. The impact of the proposed subtitle is incorporated in the proposed FY 2012 through FY 2015 budget and financial plan.

Estimated Fiscal Impact of Subtitle (VIII) (S) – Hospital Assessment Amendment Act of 2011, FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four- Year Total
Impact on the Hospital Fund ^{1,2}	\$7.17	\$7.17	\$7.17	\$0.00	\$21.52

Table notes:

¹ Assumes no change in the current number of licensed beds.

² Does not include beds at St. Elizabeth’s Hospital, any hospital operated by the federal government or the Not-for-Profit Hospital Corporation (formerly the United Medical Center).

²⁰⁶ Effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 44-633(a)(2)).

²⁰⁷ This is because the tax would be made effective immediately as a part of the FY 2012 Budget Support Emergency Act of 2011.

TITLE IX- SPECIAL PURPOSE AND DEDICATED REVENUE FUND TRANSFERS

Background

The proposed title would: 1) repeal certain special purpose revenue and dedicated tax funds and thus, convert them to local funds; 2) make certain special purpose revenue and dedicated tax funds lapsing and/or require that any of their unexpended monies remaining at the end of the fiscal year revert to the General Fund; and 3) make changes regarding the source of revenue for two funds.

The following 66 special purpose revenue and dedicated tax funds would be repealed. Of these, 43 are codified in the District of Columbia Code (as detailed in Table 1a) and 23 are not (as detailed in Table 1b).

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
§ 50-2201.05 (b)(3)	Driving Under the Influence Enforcement	Fines for fleeing from scene of accident and for driving under the influence of liquor or drugs	Support the Attorney General's (AG) enforcement and prosecution of law that prohibits driving a vehicle under the influence of alcohol
§ 28-4516	Antitrust Fund	(1) Appropriations; (2) sums that transferred pursuant to a court order or judgment in an antitrust case; (3) gifts or grants; (4) criminal or civil penalties or recovery of costs and attorney fees in an antitrust action, and (5) sums received through the settlement of an antitrust case	Defray costs related to the investigation, preparation, institution, and maintenance of antitrust actions
§ 28-3911	Consumer Protection Fund	(1) Sums received under a court order or judgment in a consumer protection case; (2) gifts or grants; (3) any sums recovered by the AG through the settlement of a consumer protection claim; and (4) a percentage of any recoveries secured through litigation by the AG	Defray costs incurred in: (1) investigating, preparing, filing, and maintaining consumer protection actions; (2) receiving or responding to consumer complaints, and (3) providing consumer education
§ 2-301.01 <i>et seq.</i>	Antifraud Fund	Criminal fines, civil penalties, and damages collected in false-claims cases	Support the AG's investigation and prosecution of false-claims cases
§ 47-317.08	Compliance and Real Property Tax Administration Fund	Fees for the cost of collecting delinquent taxes and fees for the costs of tax sales	Defray the costs of compliance activities and tax-sale activities.
§ 10-1016	Employee Parking Program Fund	Dees paid by District employees for use of parking facilities in District owned-properties, and any interest earned on those amounts	For the: (1) maintenance and non-capital improvement of District-owned properties that are managed by DRES; (2) administration of the employee parking program; and (3) establishment and operation of mass-transit programs for District government employees

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
§ 10-701	District of Columbia Leasing Fees Working Fund	All rents and fees received by the District government from the lease of real property owned by the District	Maintain, repair, or improve buildings owned by the District government
§ 2-307.03	District of Columbia Surplus Personal Property Sales Revolving Fund	Proceeds from surplus personal property sales	Defray costs of OCP for conducting surplus personal property sales, operating the Personal Property Division, and supporting other procurement activities
§ 2-311.03	District of Columbia Supply Schedule and Purchase Card Fund	The discount collected on all sales, purchase orders, delivery orders, task orders, and purchase card transactions carried out in accordance with D.C. Supply Schedule (DCSS) contracts and discounts from vendors who participate in the Purchase Card program	Defrays the costs of operating and maintaining DCSS, the Purchase Card program, and other programs administered by the OCP
§ 2-1225.01 <i>et seq.</i>	Economic Development Special Account	Operating funds transferred from the Anacostia Waterfront Corporation and the National Capital Revitalization Corporation to the DMPED	Relocate the District's Shared Computer Center, construct and preserve affordable housing on the property vacated by the computer center, and fund the costs of operating and administering properties and programs under the authority of the DMPED
§ 42-3403.07	Housing Assistance Fund	Conversion fee that a building owner must pay when converting rental housing into a condominium or cooperative	(1) Provide emergency housing and tenant relocation assistance; (2) support the Home Purchase Assistance Program and the administration of housing assistance payments; and (3) pay for the administrative and operational costs of OTA
§ 42-3504.01(b)	Rental Accommodations Fee Fund	A portion of fees collected in the prior fiscal year from a rental unit fee that each rental housing provider must pay annually per housing unit	Provide operating support to the Office of the Chief Tenant Advocate
§ 1-301.01	Distribution Fees	Sales of the District of Columbia Statutes-at-Large, the District of Columbia Register, and the District of Columbia Municipal Regulations, which are to be sold at prices that approximate the cost of production and distribution and certification fees for notary public commissions and fees for the authentication of documents for both foreign and domestic use	Defray the expenses of the Office of Documents and Administrative Issuances, and the Office of Notary Commissions and Authentications
§ 6-1406.01	Construction and Zoning Compliance Management Fund	Penalties and fines that DCRA assesses for illegal construction	Fund various DCRA employees, finance a homeowners' center, and pay for enhanced customer service delivery
§ 1-1329	Enhanced Surveyor	Fees and additional charges for	Maintain and upgrade the surveying

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
	Function Fund	services rendered by the Surveyor of the District	systems and enhancing customer service delivery by the Office of the Surveyor
§ 2-1831.05(b)(9)	Adjudication Fees and Fines	Portion of revenue paid in connection with any adjudicated case	Fund the administrative adjudication services provided by OAH
0§ 3-1351 <i>et. seq.</i>	Motor Vehicle Theft Prevention Fund	Revenue from fines paid by individuals who violate the District's law requiring a motor vehicle owner or operator to meet motor vehicle insurance requirements	Supports the activities and pays expenses of the Motor Vehicle Theft Prevention Commission
§ 5-1418	Office of the Chief Medical Examiner Management Fund	All fees received by OCME, interest earned on the deposits, and any additional funds that Congress may appropriate to the Fund	Exclusively for OCME personnel and non-personnel expenditures
5-E DCMR § 2320.17	None	Fees charged for GED testing	GED testing
§ 38-271.01 <i>et. seq.</i>	Pre-k Program Assistance Grant Fund	Local funds, federal funds and grants	Provide assistance to pre-k programs in meeting the HQ standards and pay for administrative costs and monitoring of the Fund
§ 38-401 (c-1)	Real Property Improvement Fund	Net proceeds and interest from the disposition of any real property that was formerly under the jurisdiction of the Board of Education and that has been transferred to the Mayor's authority	Maintenance, improvement, rehabilitation, and repair of buildings and grounds under the jurisdiction of DCPS
§ 10-802	Real Property Improvement Fund	Net proceeds and interest from the disposition of any real property that was formerly under the jurisdiction of the Board of Education and that has been transferred to the Mayor's authority	Maintenance, improvement, rehabilitation, and repair of buildings and grounds under the jurisdiction of DCPS
§ 4-1303.03c	Child and Family Services Agency Transportation Fund	Any unspent monies from the intra-district transfer to cover the transportation costs for children under CFSA's care	Defray the school transportation costs for wards of the District with special needs who live outside of the city
§ 48-901.02 <i>et seq.</i>	Drug Interdiction and Demand Reduction Fund	(1) Auction proceeds of real property, personal property, or assets seized through narcotics enforcement; and (2) fines imposed on persons who knowingly open or maintain any place to manufacture, distribute, or store for the purpose of manufacture or distribution, a narcotic or abusive drug	Fund MPD law enforcement activities and substance abuse education, prevention, and treatment activities of the Addiction Prevention and Recovery Administration
§ 8-1504(a)	Low-Level Radioactive Waste Fund ²⁰⁸	Registration fees and fines paid by any person or organization that generates low-level radioactive waste	Offset the District's costs of disposing of low-level radioactive waste

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
§ 8-1804	Animal Control License Fees Fund	Annual license fee for dogs	Provide animal control and animal disease prevention services
§ 7-701.01 <i>et seq.</i>	Public Health Laboratory Fund	Fees for different types of laboratory analysis	Hire staff, purchase supplies, maintain equipment, and provide training to laboratory personnel
§ 7-731	Department of Health Regulatory Enforcement Fund	Fines and penalties paid in DOH enforcement cases that are adjudicated by OAH	Support the regulatory functions of DOH
§ 7-1404	Health Care Safety Net Fund	Appropriations, federal and other grants, the accounts receivable of the Public Benefit Corporation, and gifts	Support the DC Healthcare Alliance
§ 8-151.13	District Department of the Environment Fund	Any fines, fees, or monetary awards received pursuant to a violation of environmental laws	Support the programs and activities of the D.C. Department of the Environment (DDOE)
§ 8-113.05	Underground Storage Tank Trust Fund	(1) Underground storage tank fees, inspection fees, and licensure fees; (2) civil penalties, costs and judgments recovered; and (3) grants or reimbursement for expenditures related to the District's underground storage tank management program	Support the District's regulatory program for underground storage tanks that contain regulated substances
§ 8-103.09a	District of Columbia Wells Maintenance Fund	Permit fees for well construction and reimbursement of costs for services associated with the regulation of wells	Defray administrative costs associated with regulating wells in the District
§ 8-231.09	Lead Poisoning Prevention Fund	Fees, fines, or penalties derived from compliance with and enforcement of the lead-hazard prevention and elimination law	Promote compliance with and enforcement of the District's lead-hazard prevention and elimination statute, and help low-income residents comply with requirements to reduce lead-based paint hazards
§ 8-1319	Hazardous Waste and Toxic Chemical Source Reduction Fund	Permit fees for hazardous waste disposal, and fees paid by businesses that generate hazardous waste or release a toxic chemical	Supports the operation of the DDOE's Hazardous Waste Division
§ 50-1703.02	Child Passenger Safety Fund	Any amount by which a fine paid for violating the child restraint statute exceeds \$55	The child passenger safety class, the provision of child restraint systems free or at a minimal cost to low income families, and to establish fitting stations in each ward of the city
§ 9-501	Citizen Street Light and Traffic Control Project	Permit fees paid by developers, gas companies, the Washington Metropolitan Area Transit Authority, and individuals for installing, relocating, and removing streetlights	Defray the costs of its electric bill from PEPCO
§ 50-2421.10	Abandoned Vehicle Reimbursement Fund	21 percent of the revenue from the sale or auction of an unclaimed vehicle, and 37 percent of the disposition and salvage of an unclaimed vehicle	Reimburse DPW for the costs it incurs for towing, storing, selling, or otherwise disposing of any unclaimed vehicles that are in its possession

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
§ 50-1405.01	Driver Education Program Fund	Five dollars of the fee received for each motor vehicle operator's permit issued by the District	Driver education programs and other activities of DMV
§ 50-408	Commercial Driver's License Program	Commercial driver's license fees	Help pay the cost of the DMV's commercial motor vehicle licensing program
§ 39-107	D.C. Public Library Bookstore	Revenue from the sale of library related items and promotional items	Pay the salary and benefits of the bookstore manager, buy merchandise that is sold in the bookstore and purchase books and other publications
§ 39-105(b)	Library Fines	Fines and penalties that DCPL is authorized to assess on patrons who have lost or damaged books or other library materials, or failed to return the books or materials on time	Support the purchase of books by DCPL
§ 6-703.01	Fire Protection Special Revolving Fund	Fees that cover the cost of conducting fire-safety inspections	Cover the cost of inspecting the fire safety plans and systems of buildings in the District
§ 22-1705(c)	Gambling Proceeds	Revenue is derived from the sale at auction of property and other things of value seized from an unlawful gambling operation	Support law enforcement activities of MPD

Subtitle IX- Table 1b. Repeal Funds with No Citation in the D.C. Official Code		
Reference	Fund Number	Agency
OPEB Trust Administration	0623	Office of the Chief Financial Officer
ABC- Keg Registration Fees	6018	Alcoholic Beverage Regulation Administration
Commercial Trust Fund	0622	Department of Small and Local Business Development
DHCD Nuisance Abatement	0608	Department of Housing and Community Development
Data Processing Fund	1431	Metropolitan Police Department
Sale of Unclaimed Property	1607	Metropolitan Police Department
Automated Traffic Enforcement Fund	1660	Metropolitan Police Department
Miscellaneous Library Funds	6109	District of Columbia Public Library
Miscellaneous Library Funds	6110	District of Columbia Public Library
Office of Professional Licensure Special Account	6010	Office of the State Superintendent
Vital Records	0606	Department of Health
Methadone Fees	0610	Department of Health
Food Handlers Certification	0612	Department of Health

Subtitle IX- Table 1b. Repeal Funds with No Citation in the D.C. Official Code		
Reference	Fund Number	Agency
Office of Professional Licensing	0617	Department of Health
Other Medical Licenses and Fees Fund	0641	Department of Health
Health Facility Fee Fund	0649	Department of Health
DC General Collections Fund	0653	Department of Health
Asbestos Certification and Abatement Fee Fund	0648	District Department of the Environment
Adjudication Hearings (Air Quality Fund)	0664	District Department of the Environment
Adjudication Hearings (Water Quality Fund)	0665	District Department of the Environment
Housing Production Trust Fund	1261	Department of Housing and Community Development
Special Purpose Revenue	0600	Department of Health
RETF-Pepco	0661	District Department of the Environment

The following 40 special purpose revenue and dedicated tax funds would be converted into lapsing and/or any of their unexpended funds remaining at the end of the fiscal year would revert to the General Fund. Of these, 18 are codified in the District of Columbia Code (as detailed in Table 2a) and 22 are not (as detailed in Table 2b).

Subtitle IX- Table 2a. Convert Funds with Citations in the D.C. Official Code to Lapsing/Revert unexpended monies to the General Fund at the end of the Fiscal Year			
Code	Name of Fund	Sources of Funds	Use of Funds
§ 41-123 (b)(1)	Unclaimed Property Contingency Fund	A portion of the proceeds of unclaimed property sales	Defray costs for administering the unclaimed property program
§ 3-606(c)	Boxing Commission Revolving Account	Fees collected from the issuance of licenses and permits	Finance the operating expenses of the Boxing and Wrestling Commission
§ 47-2826(b)	Special Events Revolving Fund	License fee paid by owners, managers, or promoters of special events	Defray the costs to DCRA of providing services needed to protect public health and safety at special events
§ 38-302(c)	General Fund, earmarked	Fees for non-District residents attending DC schools	Reserved for future school budgets
§ 38-804	General Fund, earmarked	Any fees for food services in schools	Reserved for future school budgets
§ 38-2602	Academic Certification and Testing Fund	Fees for state academic credential certifications and general educational development testing	Support the administration of state academic credential certifications, General Educational Development, and other state-level programs that are administered by OSSE
§ 38-2607	Education Licensure Evaluation Site Commission	Fees the Commission is authorized to charge any institution that it licenses	Cover the costs of the Education Licensure Commission's review of post-secondary institutions for licensing purposes

Subtitle IX- Table 2a. Convert Funds with Citations in the D.C. Official Code to Lapsing/Revert unexpended monies to the General Fund at the end of the Fiscal Year

Code	Name of Fund	Sources of Funds	Use of Funds
	Evaluation Fund		
§ 10-303	Recreation Enterprise Fund	Deposits equal to the amount collected by DPR through fees and concessions	Support the administration, improvement, and maintenance of property and programs managed by DPR
§ 8-1015(f)	Solid Waste Facility Charge	Recycling charge imposed on operators of solid waste facilities in the District	Support the recycling program administered by DPW
§ 50-1507.06 (b)	International Registration Plan Fund	Vehicle registration fees for International Registration Plan registrants, and all interest earned on those fees	Defray DMV's operating costs
§ 1-325.81	FEMS Special Events Fee Fund	License and permit fees charged to owners, managers, or promoters of the special events	Reimburse FEMS for expenses related to the provision of special events such as parades or festivals
§ 1-333.11(g)	Dishonored Check Fee Collection Fund	Fees charged when checks written to the District of Columbia government are not honored	Defray the operating costs for handling dishonored or unpaid checks and collecting the amounts that are owed
§ 39-501.05 (a)	Film DC Special Account	Dues charged by the Office of Motion Picture and Television Development for applications for and issuances of public-space permits for motion picture, television, and other media productions	Defray operating expenses of the Office of Motion Picture and Television Development
§ 42-2853.02(a)	Low-Income Housing Tax Credit Fund	Fees charged by DHCD in relation to the Low-Income Housing Tax Credit	Cover administrative costs associated with the LIHTC and to pay for annual Fund audit.
§ 5-432	Fire and Emergency Medical Services Training Fund	Fees charged to cover the costs of training that FEMS provides to non-District of Columbia government agencies, organizations, and individuals	Acquire improved technology and equipment, to hire, train, and certify staff, and to otherwise improve the quality of the training programs offered by FEMS
§ 50-323(a)	Taxicab Commission Fingerprinting Fund	Fees paid by applicants for taxicab and limousine licenses	Allow the Taxicab Commission to pay MPD for fingerprint records for taxicab and limousine license applicants
§ 50-921.33	D.C. Circulator Fund	(1) Farebox payments made by D.C. Circulator passengers; (2) any fines or penalties issued for violation of D.C. Circulator rules; (3) the sale of advertising space on and within D.C. Circulator buses; and (4) monetary gifts	Support the D.C. Circulator transit program
§ 1-325.91	Solid Waste Disposal Cost Recovery Special Account	All solid waste disposal transfer fee and disposal fee	Defray the expenses of operating, maintaining, and improving the District's solid waste transfer facilities, and to dispose of solid waste delivered to those facilities

Subtitle IX- Table 2b. Convert Funds with No Citation in the D.C. Official Code to Lapsing/Revert unexpended monies to the General Fund at the end of the Fiscal Year		
Reference	Fund Number	Agency
Reimbursables from Other Governments Fund	1555	Department of Human Resources
Utilities Payment for Non-DC Agencies	1150	Office of Finance and Resource Management
Payroll Services Fee	0602	Office of the Chief Financial Officer
Service Contracts	0603	Office of the Chief Financial Officer
Miscellaneous Revenue	0607	Office of the Chief Financial Officer
Bank Fees	0610	Office of the Chief Financial Officer
Tax Collection Fees	0611	Office of the Chief Financial Officer
Defined Contribution Plan Administration	0614	Office of the Chief Financial Officer
DC Lottery Reimbursement Fund	0619	Office of the Chief Financial Officer
Defined Benefits Retirement Program Fund	0615	Department of Human Resource
Reimbursable from Other Government (Police and Fire Clinic Reimbursement Fund)	1555	Metropolitan Police Department
Fixed Cost Payments for Non-DC Agencies	1150	Department of Real Estate Services
Miscellaneous Fund within the Metropolitan Police Department	1614	Metropolitan Police Department
EMS Fees	0656	EMS Fees
Pesticide Product Registration Fund	0645	District Department of the Environment
Storm Water Fees Control Fund	0646	District Department of the Environment
General O-type Revenue	6000	District Department of Transportation
Federal Transit Grant Match	6425	District Department of Transportation
General Revenues	6000	Department of Public Works
Clean City Fund/ Brownfield Development	6591	Department of Public Works
Radiation Protection	0633	Department of Health
Special Events	6100	Fire and Emergency Medical Services

The proposed subtitle also would move the Shelter and Transitional Housing for Victims of Domestic Violence Fund²⁰⁹ from under the administration of the Office of Victim Services to under the Deputy Mayor for Public Safety and Justice.

²⁰⁹ See D.C. Official Code § 4-521.

Lastly, the proposed title would limit the revenue sources for: 1) the Securities and Banking Regulatory Trust Fund, a lapsing fund, to all proceeds from licensure and any funds obtained pursuant to securities regulation and banking regulation; and 2) the Emergency and Non-Emergency Number Telephone Calling Systems Fund ("E-911 Fund") to the monies and the interest earned on these monies collected from the monthly per line tax²¹⁰ and the prepaid wireless E911 charge of 2 percent of the sales price per retail transaction.²¹¹ Revenues from the following sources would no longer be deposited or authorized to be deposited into the Fund: the District of Columbia Consumer Protection Fund, the Fire and Emergency Medical Services Department Special Events Fund, the Fire and Emergency Medical Services Department Ambulance Revenue, steam (including arrearage payments) for the Correctional Treatment Facility, federal reimbursement for emergency planning and security costs, and photo enforcement (red light and speeding).²¹²

Financial Impact

The proposed subtitle abolishes 66 special purpose revenue funds and directs the revenues collected in these funds to the Local General Fund. As a result, the Local General Fund revenue is expected to increase by \$67.7 million in FY 2012 and by \$265.3 million over the four-year financial plan period. The functions supported by these special purpose revenue funds would be funded through direct appropriations to the relevant agencies. The fiscal effect of this change is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan period.

In addition, unexpended monies in 40 special purpose revenue and dedicated tax funds would lapse and revert to the unrestricted portion of the Local General Fund at the end of the fiscal year. This provision would increase the fund balance in the Local General Fund and reduce the balances of the associated special purpose revenue and dedicated tax funds. The net impact on the District's General Fund would be zero.

Abolishing special purpose funds and appropriating the associated operating costs to each agency could improve efficiency in budgeting: the District could better match resources to various services, especially if revenues collected in the special purpose revenue accounts had little correlation to the costs of the services supported by the same account. However, there are also risks since the District does not have much experience in appropriating for these services. Currently, the availability of services supported by special purpose funds is limited by the availability of monies in these funds. If direct appropriations were used, agencies could overrun their budgets and incur spending pressures.

²¹⁰ See D.C. Official Code § 34-1803

²¹¹ See D.C. Official Code § 34-1803.02

²¹² See D.C. Official Code § 34-1803.01

TITLE X- BUDGET AND FINANCIAL PLAN FUND CHANGES

Subtitle (X)(A) – Fund Balance Undesignation Act of 2011

Background

The proposed subtitle directs the Chief Financial Officer to undesignate the use of balances in certain local funds, dedicated tax revenues, and special purpose revenues, so that the funds revert to the unrestricted balance of the General Fund at the end of fiscal year 2011.

The proposed subtitle is necessary to ensure that the uses and the sources of the fund balance are equal. The fund balance has three uses: 1) reserved portion; 2) unreserved, but designated portion; and 3) unreserved and undesignated portion. The reserved portion of the fund balance is determined by local law, federal law, and other externally enforceable legal restrictions. The primary components of the reserved portion are the Emergency and Contingency Reserve funds, required by Congress, and the bond escrow, required by statutes and covenants associated with the District's bond issuances.²¹³ The designated portion of the fund balance is determined by management earmarks expressed through local law or policy that the District could choose to change. The primary components of the designated portion are amounts set aside for specific agency use, or general future budget use, by the Mayor and Council. The unreserved and undesignated portion of the fund balance, being the last component, is essentially the result of what is left over after the other two major components are satisfied.

At present the uses and the sources of the fund balance are not equal because of continued increases in the uses, as well as continued decreases of the sources. On the uses side, the reserved portion has increased to reflect increased bond escrow requirements.²¹⁴ On the sources side, the lower-than-expected revenues have reduced the fund balance.²¹⁵ Thus, undesignations are necessary to ensure that the total of the reserved, designated, and undesignated portions in the fund balance equals the total resources in the fund balance.

The proposed subtitle is the necessary legislation to remove the designations—the only portion of the fund balance under the District's control.

²¹³ Some Special Purpose Revenue fund balance amounts are also in the reserved portion, as required by Council's enabling legislation (that is, legislative authority to raise revenues, conditioned upon the revenue being used for a particular purpose).

²¹⁴ The increases in the reserved portion include \$53.6 million for the Emergency and Contingency Reserves and \$56.5 million for bond escrow.

²¹⁵ The FY 2010 CAFR shows a variance of \$160.8 million between revised Local revenue estimates (including transfers and fund balance) including \$24.6 million included as a Generally Accepted Accounting Principles (GAAP) addition to revenue, rather than budgetary revenue, for transfers from the Community Health Care Financing Fund (\$14.8 million) and the Tax Increment Financing Fund (\$9.8 million), \$72.6 million of other revenues that similarly were not included as budgetary revenues, \$8.0 million planned to balance the budget from excess funding in the Contingency Reserve, for which the District did not receive the necessary Congressional permission to withdraw; and \$55.6 million of net actual revenue shortfall.

Financial Impact

The proposed subtitle has no impact on the District’s proposed FY 2012 through FY 2015 budget and financial plan. Over-designation of the fund balance does not create a budget deficit. The total amount of funds that would revert to the General Fund is already included in the fiscal year 2012 budget and is shown in the chart below.

Fiscal Impact of Title X (A) – Fund Balance Undesignation Act of 2011		
(\$ millions)		
Type	FY 2011 Undesignation	FY 2012 Deposit
Local Funds	\$68.63	
Dedicated Taxes	\$12.11	
Special Purpose Revenue	\$77.67	\$26.04
Total	\$158.41	\$26.04

Subtitle (X)(B) – Fiscal Year 2011, 2012 and 2013 Funding Transfer Amendment Act of 2011

Background

The proposed subtitle changes the amount of funds to be transferred to certain agencies from Budget Support Acts from prior years. The amount to be transferred is reduced from a total of \$4,941,965 to \$764,492, so that \$4,177,473 will remain in the General Fund. The total amount of funds that would be transferred is already included in the fiscal year 2012 budget and is shown in the chart below.

Transfers Reversed or Reduced by Fiscal Year 2011, 2012, and 2013 Funding Transfer Amendment Act of 2011 (\$ millions)			
Agency	Prior Transfer	New Transfer	Effect
Department of Real Estate Services	\$2.26	\$0.70	(\$1.56)
Office of the Chief Financial Officer	\$0.01	\$0.00	(\$0.01)
Office of Tenant Advocate	\$0.60	\$0.00	(\$0.60)
Office of Tenant Advocate	\$0.58	\$0.00	(\$0.58)
D.C. Public Schools	\$0.07	\$0.06	(\$0.01)
Department of Health	\$0.00	\$0.00	(\$0.00)
Department of the Environment	\$0.02	\$0.00	(\$0.02)
Department of Insurance, Securities & Banking	\$1.06	\$0.00	(\$1.06)
Department of Insurance, Securities & Banking	\$0.34	\$0.00	(\$0.34)
Totals	\$4.94	\$0.76	(\$4.18)

In two cases (Office of Property Management and D.C. Public Schools) the subtitle amends future transfer amounts to reflect lower revenues than expected at the time of the enactment of the transfers. In all other cases, the subtitle repeals the transfers due to legal impediments.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

Financial Impact

The proposed subtitle reduces various transfers for fiscal years 2011, 2012, and 2013 by \$4.17 million. The fiscal impact of the proposed legislation is already incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

Subtitle (X)(C) – Special Purpose Fund Transfer Act of 2011

Background

The proposed subtitle requires the Chief Financial Officer to transfer \$5.126 million from the certified resources of the Community Health Care Financing Fund²¹⁶ (CHCFF) to the unrestricted fund balance of the General Fund.

Financial Impact

CHCFF has sufficient funds to support the proposed \$5.126 million transfer to the General Fund in FY 2012. Of this total, \$4.468 million consists of operating dollars previously transferred to the CHCFF in place of bond proceeds. The remaining \$658,000 consists of interest earnings on bond proceeds that are eligible to be used for operating budget purposes. The fiscal impact of the proposed subtitle has been incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

²¹⁶ This fund is commonly referred to as the Tobacco Fund, since it largely, but not entirely, consists of bond proceeds related to Tobacco Settlement funds. Established by D.C. Official Code § 7-1931, CHCFF is a non-lapsing interest earning account which holds proceeds received by the District from the sale by the District of Columbia Tobacco Settlement Financing Corporation of its Tobacco Settlement Asset-Backed Bonds, Series 2006. The fund resources are to be used to promote health care and for the delivery of health care related services in the District, including the construction of health care facilities and the operation of health care related programs, or to reimburse any account of the General Fund for its expenditures for these purposes.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Amendment in the Nature of a Substitute, dated June 14, 2011

TITLE XI- CAPITAL BUDGET AUTHORITY

Background

The proposed title, Department of Transportation Capital Budget Allocation Authority Act of 2011, authorizes the Director of the Department of Transportation to request that the Chief Financial Officer allocate capital budget dollars from the general transportation project capital budget to specified projects once the budget is approved.

Financial Impact

The proposed subtitle affects the execution of the capital budget; it does not change the amounts allocated to the District's Capital Improvement Plan. As such, it has no impact on the District's proposed FY 2012 through FY 2015 budget and financial plan.