

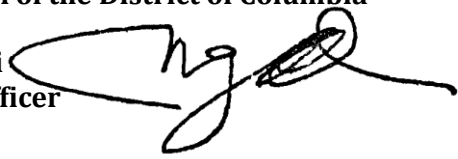
Government of the District of Columbia
Office of the Chief Financial Officer



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: April 5, 2011

SUBJECT: Fiscal Impact Statement – “Fiscal Year 2012 Budget Support Act of 2011”

REFERENCE: Legislation submitted to the Council on April 1, 2011

This reissued fiscal impact statement fixes an incorrectly printed table under Section VIII(M).

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 2011.¹ 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 \$5.50 billion² in the proposed General Fund FY 2012 budget and financial plan.

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

¹Subtitle I (C) of the proposed legislation 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 the time or the information necessary to fully assess the fiscal implications of the proposal, including implementation costs and costs of new functions this agency might undertake.

² This figure excludes transfers to Enterprise Funds and the cost of Other Post Employment Benefits for FY 2012. Planned use of local funds for FY 2012 including transfers and OPEB equal \$5.92 billion.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Legislation submitted to the Council on April 1, 2011

through FY 2015 budget and financial plan period. The purpose and the impact of each subtitle are summarized in the following pages.

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TITLE I- GOVERNMENT DIRECTION

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

Background

The proposed legislation would prohibit the District from awarding performance-related bonuses, special act pay, and service awards 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 are exempted from the requirements of this provision. District of Columbia Public Schools (DCPS) teachers eligible for special awards pay and bonus pay are also excluded.

Financial Impact

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

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

Background

The proposed subtitle would³ to allow the Office of the Chief Technology Officer (OCTO) to award sub-grants, for the purpose of 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 was awarded \$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 impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 budget and financial plan.

³ 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.⁴ Beginning in 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 legislation 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 through maintaining building assets and equipment, performing repairs and non-structural improvements, and providing janitorial, trash, recycling, postal, and engineering services.⁵
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.

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.

⁴ 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.*)

⁵ Provided that DCPS would remain responsible for providing janitorial services at DCPS facilities

- Capital construction and real property management functions for all District agencies as determined by the Mayor,⁶ 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. Asset management program funds that are held in special purpose revenue accounts at DMPED would be transferred to DGS through a Memorandum of Understanding between these two agencies.

Independent Procurement Authority

Once rules are in place, DGS would have independent procurement authority.⁷ 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 1984,⁸ and the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005.⁹

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.

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. This is done by transferring the relevant funds and personnel authority out from individual agency budgets into the proposed DGS, allowing for reductions for vacancies as described in the tables below.

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.

⁶ Excluding the District Department of Transportation.

⁷ By amending the Procurement Practices Reform Act of 2010, signed by the Mayor on February 3, 2011 (D.C. Act 18-723; 58 DCMR 1185) to add the Department of General Services to Section 105(c) on application and exemptions.

⁸ Effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*)

⁹ Effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*)

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 (\$ millions)					
	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 Capital *	\$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:

*The capital transfers into DGS are less 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.

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 fully assess 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 make DGS operational by the beginning of FY 2012, and to successfully transfer people and funding by this time, implementation must start much sooner than October 1, 2011. At the time of drafting this 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. Current budget transfers do not account for the typical turnover of staff and additional funds necessary to implement the transfers. Past turnover rates in agency restructurings or transfers have varied between 13 percent and 68 percent.¹⁰ Should such turnover is seen with the new agency DGS would 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 past 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.¹¹ 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 significant additional costs associated with physically moving office equipment from multiple offices into one office.¹²

¹⁰ 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.

¹¹ Severance payments are up to 13 weeks per DC 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.

¹² 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.

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 1985¹³ to require all revenues collected from rental unit fees remain in the Nuisance Abatement Fund (“Abatement Fund”)¹⁴ administered by the Department of Consumer and Regulatory Affairs (DCRA). Currently, a portion of these revenues are 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.¹⁵

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. The fee revenue used by OTA will be replaced by annual appropriation from the local fund. 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 1978¹⁶ 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 regulations¹⁷ 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 proposal would not add any new revenue to the General Fund, but redirect revenues from two¹⁸ of the seven types of filing fees charged under 10 DCMR § C 205 from the Local General Fund, to the

¹³ Effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §42-354.01(a))

¹⁴ Established pursuant D.C. Official Code §42-3131.01.

¹⁵ 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.)

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

¹⁷ 10 DCMR § C 205.

¹⁸ The two fees are under referred to under section 205.3 under the proposed Subtitle (II)(E) Historic Preservation Fee Authorization Clarification Act of 2011.

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 Repeal Act of 2011

Background

The proposed subtitle repeals the Neighborhood Investment Act of 2004 (“Act”).¹⁹ The Act established the Neighborhood Investment Fund (“NIF”) and dedicated to NIF approximately 17.4 percent of personal property tax collections, not to exceed \$10 million annually. The monies deposited into the NIF are used to implement neighborhood revitalization activities outlined in the neighborhood investment plans.

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

Estimated Fiscal Impact of Subtitle II(C) – Neighborhood Investment Fund Repeal Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Eliminate NIF	(\$3.19)	(\$3.19)	(\$6.39)	(\$10.00)	(\$22.77)
Impact to Local Fund	\$3.19	\$3.19	\$6.39	\$10.00	\$22.77
Net Impact on General Fund	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

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 1999²⁰ to prohibit the issuance of any new vouchers under the Local Rent Supplement Program (LRSP). Under this proposal, no new vouchers will be granted, even as existing voucher holders leave the program.

The proposed subtitle would also 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.²¹ DCHA shall mandate that providers of project or sponsor-

¹⁹ Effective March 30, 2004(D.C. Law 15-0131; D.C. Official Code § 6-1071)

²⁰ Effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code 6-226)

²¹ Department of Human Services administers the Housing First Program.

based housing under the 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 Code²² 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.²³ Monies transferred from the HPTF could not be used for administrative fees.

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 an expenditure transfer of approximately \$1.6 million²⁴ from DHS to DCHA in fiscal year 2012. It is anticipated that DHS will be able to transfer a total of 175 Housing First clients to new LRSP project-based units by the second quarter of fiscal year 2012.²⁵ In addition, any moving costs associated with moving these clients to new housing units would be covered by the cost savings realized by DHS no longer providing case management services to these clients.

Finally, 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.

²² D.C. Official Code § 42-2802 (b)

²³ As described under sections 6-227, 6-228, and 6-229 of the D.C. Official Code.

²⁴ This estimate assumes all 175 clients can be moved in to DCHA's project-based units.

²⁵ According to DCHA's pipeline of project-based units, 137 units are expected to deliver in the last quarter of fiscal year 2011 and an additional 48 in the second quarter of FY 2012.

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 agency 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 make a number of changes to the Initiative.

First, the proposed subtitle would move the Initiative to under the Mayor’s control and as such, the Mayor, and not the OCFO, would be responsible for awarding any grants from its funds, including the grant to the Bar Foundation.

Second, it would broaden the scope of the Initiative to include providing loan repayment assistance to attorneys participating in the District of Columbia Poverty Lawyer Loan Assistance Repayment Program (“Program”).²⁶ Under current law, an amount of funding specified by the Council for the Program is allocated to the Office of the Attorney General (OAG). OAG must use this money either to provide a grant to a third party to administer the Program²⁷ or to serve as the Program’s administrator. Under the proposed subtitle, the Mayor, and not OAG, would be required to use these funds, either to provide a grant to a non-profit entity to administer the Program or to serve as the Program’s administrator.

Third, it would allow the administrator of the Program to use up to 15 percent of the allocated funding for reasonable administrative expenses. Currently, only 5 percent can be used for administrative expenses.

Lastly, it would allow the Bar Foundation and either the Mayor or the non-profit administrator of the Program to use a portion of their allocated funding for administrative expenses to secure the required annual finance and management audit of each program.

Financial Impact

The proposed subtitle would not have an effect on the amount allocated to the District of Columbia Poverty Lawyer Loan Assistance Repayment Program, but rather would change the agency to which this money is allocated, and how it could be used. These changes have no impact on the proposed FY 2012 through FY 2015 budget and financial plan.

²⁶ 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.*).

²⁷ Currently, the Bar Foundation administers the Program.

TITLE IV – PUBLIC EDUCATION SYSTEM

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, especially for Levels 1 and 4.²⁸ It would also 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)²⁹ 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.³⁰ The proposed subtitle would amend the School Reform Act³¹ to require that District of Columbia Public Schools (DCPS) and all public charter schools³² that receive Special Education Formula Dollars and federal funds for special education under IDEA³³ 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 in Uniform Per Student Funding Formula (UPSFF) allocations for the next year in an amount that is

²⁸ 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.

²⁹ 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.

³⁰ 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 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.

³¹ Effective April 26, 1996 (110 Stat 1321; Pub. L. 104-134; D.C. Official Code § 1801 *et seq.*)

³² 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.

³³ These include special education add-ons in the Uniform Per Student Funding Formula, and federal grants under IDEA.

equal to the difference between what they should have expended to meet Maintenance of Effort requirements vs. 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. Furthermore, it disallows the use of Special Education Formula Dollars on 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 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. The proposal defines allowable special education costs as instruction related costs,³⁴ costs of related services,³⁵ administrative services related to the direct implementation of IDEA;³⁶

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
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

³⁴ These include salaries, benefits, supplies, textbooks, professional development, contracted services, and transportation costs for instructional personnel.

³⁵ Related services is defined in 34 CFR § 300.34 and supplementary aids and services as defined in 34 CFR § 300.42

³⁶ 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 non-public schools.

Weightings applied to counts of students enrolled at certain grade levels		
Grade Level	Weighting	Per Pupil Allocation in FY 2012
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 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 the UPSFF. Public charter schools would receive \$392,825,731 for their instructional budgets and \$97,127,510 for facilities allowance,³⁷ bringing their collective local budget to \$483,667,241.³⁸

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.

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

Background

The proposed subtitle would³⁹ eliminate the requirement for D.C. public charter schools to serve breakfast to all students and the corresponding requirement for the Office of the State Superintendent of Education (OSSE) to reimburse D.C. public charter schools for serving breakfast.

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. 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.

³⁷ 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.

³⁸ 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.

³⁹ By amending the Healthy Schools Act of 2011, effective July 27, 2010. (D.C. Law 18-209; D.C. § 38-821.0 *et seq.*)

The impact of the proposed subtitle is already incorporated into the budget and financial plan.

Estimated Fiscal Impact of Subtitle (IV)(C) – Healthy Schools Technical Amendment Act of 2011 FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Estimated Savings	\$1.26	\$1.26	\$1.26	\$1.26	\$5.04

TABLE NOTE

- Estimated savings based on the OCFO’s fiscal impact statement provided on The Healthy Schools Act of 2010.

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

Background

The proposed subtitle would amend the Day Care Policy Act of 1979⁴⁰ to increase the number of children allowed in a child development home⁴¹ from five to six.

Financial Impact

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 funding⁴² 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.

⁴⁰ Effective September 19, 1979. (D.C. Law 3-16; D.C. Official Code § 4-401

⁴¹ A private residence that provides a child development program.

⁴² D.C. Code § 38-2906.02, Payments to public charter 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’s laws on public charter school financing and support⁴³ 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,⁴⁴ in which case the term 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 chartered 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.

⁴³ § 38-1833.02, Direct Loan Fund for Charter School Improvement.

⁴⁴ 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.

TITLE V– HEALTH AND HUMAN SERVICES

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

Background

The proposed subtitle would amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978⁴⁵ (“Act”) to require that a person with mental retardation who is otherwise eligible to receive supports and services from the District pursuant to the Act must either pay the full cost of such supports and services directly to the provider or become Medicaid eligible and maintain Medicaid eligibility in order to receive supports and services from a Medicaid-eligible provider. This requirement would not apply to former residents of Forest Haven.

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 the Department of Disability Services (DDS) in out-of-state settings are receiving services and supports funded entirely by local District dollars.⁴⁶ Under the proposed subtitle, these people would have two options: 1) they could enroll in Medicaid and receive services and supports only from a Medicaid-eligible provider;⁴⁷ or 2) they could pay the full cost of the services and supports. 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.

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

Background

The proposed subtitle would amend the Fiscal Year 2002 Budget Support Act of 2011⁴⁸ 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.

⁴⁵ Effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*).

⁴⁶ These people were placed in such settings by Department of Disability Services (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.

⁴⁷ This likely would require them 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.

⁴⁸ Effective October 3, 2011 (D.C. Law 14-028; D.C. Official Code § 2-1373(c)).

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 1982⁴⁹ 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, to:

- 25 percent of the FY 2011 amount on October 1, 2011;
- 41.7 percent of the FY 2012 amount on October 1, 2012; and
- 100 percent of the FY 2013 amount on October 1, 2013.

As a result, beginning FY 2014 TANF benefits would no longer be provided to any individual who had received TANF benefits for more than 60 months. The District uses all local funds to pay for these extended benefits.⁵⁰

Financial Impact

Implementation of the proposed subtitle is estimated to result in cost savings of \$6.2 million in FY 2012 and \$74.3 million over the four-year financial plan period. To account for possible implementation delays, the proposed FY 2012 budget recognizes \$4.9 million in savings from this provision.

Estimated Fiscal Impact of Subtitle V(C) – Temporary Assistance for Needy Families Amendment Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Estimated Savings	\$6.15	\$14.39	\$26.66	\$27.07	\$74.27

TABLE NOTES

- Average benefit for FY 2011 is \$299.
- Over 60 months caseload increases by 40 every month
- The savings estimate assumes full implementation. The out-year savings estimate is higher because of the incremental cuts proposed by the subtitle.

⁴⁹ Effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*).

⁵⁰ 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.

TITLE VI- PUBLIC WORKS

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 permit⁵¹ and a registration certificate⁵² from \$7 to \$15.

Financial Impact

The increase in replacement fees for a driver's license, learner's or provision permit, and registration certificate would generate \$308,000 in FY 2012 and a total of \$1.23 million over the four-year financial plan period. These funds would be deposited into the General Fund. The impact of the proposed subtitle is incorporated into the proposed FY 2012 through FY 2015 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 Fees	\$259,000	\$259,000	\$259,000	\$259,000	\$1,036,000
Registration Replacement Fee	\$49,000	\$49,000	\$49,000	\$49,000	\$196,000
Increase to the General Fund	\$308,000	\$308,000	\$308,000	\$308,000	\$1,232,000

TABLE NOTE

- The 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 fee⁵³ 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; the provision would also streamline the fees for steel plates in place for 6 days or more.

The public space permit fees collected from steel plates are deposited in the General Fund.

⁵¹ 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))

⁵² 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))

⁵³ By amending Title 24 (Public Space and Safety), Chapter 2 (Rental of Public Space), Subchapter 25 (Public Space Permit Fees) of the District of Columbia Municipal Regulations.

Financial Impact

While the provision would eliminate the fees for the first five days in public space, streamlining of the fees is expected to improve collections and administration, resulting in no significant changes from the projected collections from steel plate fees. 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) – Advertising on District Property in Public Space Amendment Act of 2011

Background

The proposed subtitle would⁵⁴ allow the District Department of Transportation (“DDOT”) to sell advertising on DDOT property in public space including bike sharing stations. Any revenue generated would go to the General Fund.

Financial Impact

DDOT plans to enter into an agreement with advertisers for the Capital Bikeshare program. The revenue generated through advertising in 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 local Highway Trust Fund.

The impact of the proposed subtitle is already incorporated into the proposed budget and financial plan.

Estimated Fiscal Impact of Subtitle (VI)(A) – Advertising on District Property in Public Space Amendment Act of 2011 FY 2012 – FY 2015					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase to the General Fund	\$500,000	\$500,000	\$500,000	\$500,000	\$2,000,000

TABLE NOTE

- Projections based on data from other jurisdictions with similar programs and current revenue from bus shelter advertisement.

⁵⁴ By amending the Department of Transportation Establishment Act of 2002 (effective May 21, 2002. D.C. Law 14-137; D.C. Official Code § 50-921.01 *et seq.*)

TITLE VII- FINANCE AND REVENUE

Subtitle (VII)(A) – 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.
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.⁵⁵ 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)(A)					
Exemptions and Abatements Approval Information Requirements Act of 2011					
	FY2012	FY2011	FY2012	FY2013	4-Year Total
Estimated Staff and Consultant Compensation*	\$285,371	\$286,066	\$286,778	\$287,509	\$1,145,723

TABLE NOTE:

* Compensation 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)(B) – Procedure for Remittance of Hotel Taxes by Online Vendors Amendment Act of 2011

Background

The proposed subtitle would amend District’s tax code⁵⁶ to provide the procedure for collecting the transient accommodations tax⁵⁷ from online vendors known as room remarketers.⁵⁸ 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

⁵⁵ Total costs would vary depending on the number of proposed abatements each year, but are estimated to be approximately \$285,000 in FY2012 and \$1.146 million over the FY2012 through FY2015 budget and financial plan.

⁵⁶ Chapters 20 and 22 of Title 47 of the D.C. Official Code

⁵⁷ The transient accommodations tax rate is currently 14.5 percent.

⁵⁸ 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.

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.

Bill 18-655 "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 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 Bill 18-655 is already incorporated into the budget and financial plan.

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

Background

The proposed subtitle would amend 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 2007⁵⁹ by:

- Repealing the requirement that a minimum funding amount for the Office of Public Education Facilities Modernization's capital budget be included in budget and financial plan.⁶⁰ 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 section § 47-2033 of the D.C. Official Code.⁶¹ 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 section § 47-2033 which is also necessary to effectuate the repeal. This proposed subtitle would repeal section § 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 2010⁶² to make the following modifications:

- Amend the Public Education Finance Reform Commission Reform Act of 2010⁶³ ("Act") to change the date the Commission is required to deliver their equity report⁶⁴ for fiscal years

⁵⁹ Effective September 18, 2007 (D.C. Law 17-020)

⁶⁰ D.C. Official Code § 47-305.02.

⁶¹ 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.

⁶² Effective September 24, 2010 (D.C. Law 18-223)

2009 and 2010 on from January 31, 2011 to August 1, 2011. 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 February 1, 2012. Amending the dates would have no impact on the District’s budget and financial plan.

- Amend the Fiscal Year 2011 Transfer of Special Purpose Funds Act of 2010⁶⁵ 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 fiscal year 2012 budget and is shown in the table below.

FY 2012 Transfers Reduced or Reversed by the Fiscal Year 2011 Budget Support Act of 2010			
Special Purpose Account Name	Fiscal Year 2011		
	Transfer Under FY 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)
Office of the Chief Financial Officer (AT0)			
Miscellaneous Revenue Fund	\$1,038	\$0	(\$1,038)
Defined Contribution Plan Administration fund	\$124,372	\$0	(\$124,372)
Recorder of Deeds Surcharge Fund	\$0	\$125,410	\$125,410

⁶³ 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)

⁶⁴ 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.

⁶⁵ Section 7052(d) of the Fiscal Year 2011 Budget Support Act of 2011, effective September 24, 2010 (D.C. Law 18-223)

FY 2012 Transfers Reduced or Reversed by the Fiscal Year 2011 Budget Support Act of 2010			
Special Purpose Account Name	Fiscal Year 2011		
	Transfer Under FY 2011 BSA	Transfer Under Proposed FY 2012 BSA	Change in Total Transfer Amount
Department of Human Resources (BEO)			
Defined Benefits Retirement Program	\$5,456	\$0	(\$5,456)
Reimbursable from Other Governments	\$2,952	\$0	(\$2,952)
Department of Mental Health (RMO)			
DMH Federal Beneficiary Reimbursement	\$53,479	\$0	(\$53,479)
Department of Insurance, Securities, and Banking (SRO)			
Securities Broker/Dealer Licenses	\$1,057,314	\$0	(\$1,057,314)
Banking Trust Fund	\$342,868	\$0	(\$342,868)
Securities and Banking Fund	\$0	\$1,400,812	\$1,400,812
TOTAL	\$1,584,000	\$1,526,222	(\$111,257)

FY 2012 Transfers Reduced or Reversed by the Fiscal Year 2011 Budget Support Act of 2010			
Special Purpose Account Name	Fiscal Year 2012		
	Transfer Under FY 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)
Office of the Chief Financial Officer (AT0)			
Miscellaneous Revenue Fund	\$1,038	\$0	(\$1,038)
Defined Contribution Plan Administration fund	\$124,372	\$0	(\$124,372)
Recorder of Deeds Surcharge Fund	\$0	\$125,410	\$125,410
Department of Human Resources (BEO)			
Defined Benefits Retirement Program	\$5,456	\$0	(\$5,456)
Reimbursable from Other Governments	\$2,952	\$0	(\$2,952)
Department of Mental Health (RMO)			
DMH Federal Beneficiary Reimbursement	\$53,479	\$0	(\$53,479)
Department of Insurance, Securities, and Banking (SRO)			
Securities Broker/Dealer Licenses	\$1,057,314	\$0	(\$1,057,314)
Banking Trust Fund	\$342,868	\$1,400,812	\$1,400,812

FY 2012 Transfers Reduced or Reversed by the Fiscal Year 2011 Budget Support Act of 2010			
Special Purpose Account Name	Fiscal Year 2012		
	Transfer Under FY 2011 BSA	Transfer Under Proposed FY 2012 BSA	Change in Total Transfer Amount
Securities and Banking Fund	\$0	\$1,400,812	\$1,400,812
TOTAL	\$1,637,479	\$1,526,222	(\$111,257)

- Amend the Sustainable Capital Investment and Fund Balance Restoration Act of 2010⁶⁶ 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 require⁶⁷ the local funds revenue in 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 FY 2011 budget.

The proposed subtitle would also amend the Fiscal Year 2011 Supplemental Budget Support Act of 2010⁶⁸ to reduce or reverse certain transfers of special purpose revenue (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.

Transfers Reduced or Reversed by the Fiscal Year 2011 Supplemental Budget Support Act of 2010 (A18-721)						
Special Purpose Account	Fiscal Year 2011			Fiscal Year 2012		
	Transfer Under A18-721	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

⁶⁶ Effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code §47-392.02(f)(2)).

⁶⁷ By amending D.C. Official Code §47-392.02(f)(3)) to strike May 26, 2010 and inserting May 24, 2011.

⁶⁸ 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 18-0721).

Transfers Reduced or Reversed by the Fiscal Year 2011 Supplemental Budget Support Act of 2010 (A18-721)						
Special Purpose Account	Fiscal Year 2011			Fiscal Year 2012		
	Transfer Under A18-721	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount	Transfer Under A18-721	Transfer Under Proposed FY12 BSA	Change in Total Transfer Amount
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 Services	\$22,080	\$0	(\$22,080)	\$22,080	\$0	(\$22,080)
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	\$494,075	\$377,000	(\$117,675)	\$494,675	\$377,000	(\$117,675)

The proposed subtitle would also amend both the Fiscal Year 2011 Budget Support Act of 2010⁶⁹ and the Fiscal Year 2011 Supplemental Budget Support Act of 2010⁷⁰ 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 2002⁷¹ 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 change the amount of sales and use taxes for parking and storing to be transferred to the General Fund \$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.

⁶⁹ Effective September 24, 2010 (D.C. Law 18-223)

⁷⁰ 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).

⁷¹ Effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 50-921.11(c)(2))

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Legislation submitted to the Council on April 1, 2011

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 budget and financial plan.

TITLE VIII—REVENUE ENHANCEMENTS

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

Background

Combined Reporting Reform Authorization Act of 2009⁷² requires passing legislation that would require that all corporations taxable in the District of Columbia 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.

Financial Impact

The fiscal impact of the proposed legislation had been incorporated in the District's budget and financial plan when 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.⁷³ The proposed legislation ensures that the then projected increases in business income tax collections can indeed be realized.

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

Background

The proposed subtitle would amend District's tax code to limit the itemized deductions taxpayers can claim on their tax returns.⁷⁴ 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).⁷⁵ For example, under current code, a filer with a District AGI of \$300,000 and itemized deductions of \$50,000 can fully deduct this amount. Under the proposed legislation, the same filer would reduce his or her itemized deductions by \$5,000, which is 5 percent of \$100,000—the difference between the filer's AGI and \$200,000. Thus under the proposed legislation, the same filer would only be permitted to deduct \$45,000.

Estates and trusts would be exempted from these limitations.

⁷²Subtitle VII (U) of Fiscal Year 2010 Budget Support of 2009 Effective December March 03, 2010 (D.C. Act 18-02, 57 DCR 181)

⁷³ This estimate is based on revenues collected in other states, adjusted for size and characteristics of the District.

⁷⁴ D.C. Official Code §47-1803.03.

⁷⁵ 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).

The District now conforms to the federal tax code for itemized deductions (and adds back state and local taxes). Federal tax cuts enacted in 2001⁷⁶ approved the gradual repealing of a federal provision⁷⁷ 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 disappears.⁷⁸

Financial Impact

By limiting itemized deductions 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 \$82.77 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 Amendment Act of 2011, FY 2012 - FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax revenues	\$16.72	\$20.09	\$21.97	\$23.98	\$82.77

TABLE NOTES

- Based on data on resident’s itemized deductions for tax year 2008.
- Assumes that the legislation is effective January 1, 2011 under income tax rates proposed under Subtitle (M) of this Title.

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

Background

The proposed subtitle would amend District’s tax code⁷⁹ 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. Current formula equally weighs property, payroll, and sales factors for the business entity.⁸⁰ Under the proposed legislation, the sales factor would be weighed twice.^{81,82}

⁷⁶ The Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, 115 Stat. 38, June 7, 2001.

⁷⁷ 26 U.S.C. § 68(f)

⁷⁸ 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.

⁷⁹ D.C. Official Code §47-1810.02(d).

⁸⁰ 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 $S = \frac{S_{DC}}{S_{DC} + S_{OTHER}}$.

⁸¹ 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 $A_{DC} = \frac{P + PR + 2S}{4}$.

⁸² 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.

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 larger share of a company's taxable transactions compared to real property and payroll, which tend to be larger for manufacturing firms, of which we have 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	\$7.23	\$7.38	\$7.50	\$7.64	\$29.75

TABLE NOTES

- Based on data from corporate and unincorporated business income returns for tax year 2008.
- Assumes that the proposed change is effective starting January 1, 2011.

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

Background

Revenue Enhancement Act of 2009⁸³ increased 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 code⁸⁴ to make this increase permanent.

Additionally, the proposed subtitle would include in the sales tax base⁸⁵ ticket sales for live theatre events, including live performances of ballet, dance, or choral performances, concerts (instrumental and vocal), plays (with and without music), operas and readings and exhibitions of paintings, sculpture, photography, graphic and craft arts, but including movies, circuses, burlesque shows, sporting events, and performances or exhibitions of any other type or nature.

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 ticket sales for live theatre events in the general sales base will increase General Fund revenues by

⁸³ Subtitle VII (V) of Fiscal Year 2010 Budget Support of 2009 Effective December March 03, 2010 (D.C. Act 18-02, 57 DCR 181)

⁸⁴ D.C. Official Code §47-2002.

⁸⁵ *Ibid.*

\$2.3 million in FY 2012 and \$9.78 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 Sunset Repeal Amendment 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 ticket sales for theatre events ²	\$2.30	\$2.40	\$2.49	\$2.59	\$9.78
Total Increase in sales tax revenues	\$2.30	\$18.29	\$18.58	\$18.99	\$58.17

TABLE NOTES

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

² Based on Economic Census data on the sales of live theatre events. The estimate excludes sales at non-profit entities.

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

Background

The proposed subtitle would amend District’s tax code⁸⁶ to increase parking tax rate from 12 percent to 18 percent, effective July 1, 2011. Under current law, parking tax collections are dedicated to Washington Metropolitan Area Transportation Authority (WMATA).

Financial Impact

The proposed legislation will increase parking tax revenue by income tax collections, 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.

Additionally, because the proposal is effective July 1, 2011, parking tax collections will increase by \$3 million in FY 2011.

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

TABLE NOTE

- Based on estimated parking tax collections.

⁸⁶ D.C. Official Code §47-2002(1).

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

Background

The proposed subtitle would amend District’s tax code⁸⁷ to impose a surcharge of 36 cents per pack⁸⁸ on cigarettes at the wholesale level, and exempt cigarettes from sales tax at the retail level.

36 cents is the equivalent of 6 percent sales tax on a pack of cigarettes sold at an average price of \$6.⁸⁹ The provision requires that this surcharge is recalculated annually (starting March 31, 2012) to reflect the changes in the average price of cigarettes.

Financial Impact

While the tax rate would not change under the proposed legislation, replacing a retail level sales tax with a wholesale level is expected to increase tax collections because it avoids leakage at retail level⁹⁰ and simplifies administration since there are fewer payers at the wholesale level. 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. 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.

Estimated Fiscal Impact of Subtitle VIII(F) – Cigarette Sales Tax Enhancement Amendment Act of 2011, FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Eliminate Retail level sales tax	(\$4.32)	(\$4.26)	(\$4.19)	(\$4.13)	(\$16.90)
Impose Wholesale level surcharge	\$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

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

⁸⁷ Chapter 24 (“Cigarette Taxes”) of Title 57 of D.C. Official Code, and D.C. Official Code §47-2001(n)(2).

⁸⁸ Thirty-six cents apply 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.

⁸⁹ Similarly, 1.8 cents is the per cigarette sales tax calculated at 6 percent for a pack of 20 sold at \$6.

⁹⁰ 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.

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 code⁹¹ 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, filers would increase their estimated payments to avoid a penalty.⁹² 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

- Estimate is based on an analysis of 2008 income tax records.

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

Background

The proposed subtitle would amend District’s tax code⁹³ to increase 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 based 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 income is less than or equal to \$1 million, and \$1000 if its gross income is 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 \$100.⁹⁴

⁹¹D .C. Official Code §47-4214(b)(1)(B)(ii) and §47-4214(b)(1)(B)(iii).

⁹² This projection is based on the behavioral assumption that filers prefer the value the insurance of safe harbor.

⁹³ D.C. Official Code §47-1807.02(b) and §47-1803.03(b).

⁹⁴ This minimum has been unchanged since 1983.

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	\$12.00	\$12.00	\$12.00	\$12.00	\$48.00

TABLE NOTE

- Estimate 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.

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

Background

The proposed subtitle would require⁹⁵ that a District bank or financial institution disclose to the Office of Tax and Revenue (OTR), up to four times a year, any bank account⁹⁶ 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	\$3.00	\$8.00	\$8.00	\$8.00	\$27.00

TABLE NOTES

- Estimate based on estimated outstanding tax liability
- Assumes that the proposal is fully implemented by January 1, 2012.

⁹⁵ By adding a new subsection §47-4481 to Chapter 44 (“Collections”) of Title 47 of D.C. Official Code.

⁹⁶ 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.

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

Background

The proposed subtitle would amend District’s tax code⁹⁷ to require that employers exclude standard deductions from their withholding calculations, starting January 1, 2011. 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 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	\$40.95	\$5.22	\$1.78	\$1.78	\$49.73

TABLE NOTES

- Assuming 210,000 employees would be affected by the proposal.
- Based on a standard deduction of \$4,000 in TY 2012 and estimated \$4,350 in TY 2013. For out-years, the standard deduction is assumed to grow at the level of inflation.
- Because of the change in standard deduction in TY 2013 as stipulated by D.C. Code, there is a smaller one-time withholding effect in FY 2013.

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

Background

The Small Business Commercial Property Tax Relief Act of 2008⁹⁸ 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 rate⁹⁹ in Fiscal Year 2011, fixing the tax rate on the assessed value of up to \$3 million dollars to \$1.65 per \$100 of assessed value.

⁹⁷ D.C. Official Code §47-1812.08.

⁹⁸ Effective March 20, 2008 (D.C. Law 17-123; D.C. Official Code § 47-812(b-9)(2)(A)(i)).

⁹⁹ By amending § 47-812(b-9)(2)(A)(i).

Financial Impact

The rate calculations required by the Small Business Commercial Property Tax 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 District’s tax code¹⁰⁰ 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 FY 2013 are lower because the increased revenue from withholdings would be counterbalanced by deductions taken for the previous year’s withholding.

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 form 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	\$9.00	\$0.72	\$0.72	\$0.72	\$11.16

TABLE NOTES

- The estimate is based on a microsimulation model of individual income taxpayers and assumes that the legislation is effective January 1, 2011.

¹⁰⁰ D.C. Official Code § 47-1812.08.

Subtitle (VIII)(M) – Income Tax Rate Increase for Taxable Income over \$200,000 Act of 2011

Background

The proposed subtitle would amend District’s tax code¹⁰¹ to create a new income tax bracket for D.C. residents with a taxable income of \$200,000 or more. The tax rate for these taxpayers would be \$15,800, plus 8.9 percent of their taxable income over \$200,000. Under current law, these tax payers pay \$2,200, plus 8.5 percent of their taxable income over \$40,000.

Financial Impact

The proposed legislation will increase income tax collections by \$18.67 million in FY 2012 and by \$135.34 million over the four-year financial plan period. 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(M) – Income Tax Rate Increase for Taxable Income over \$200,000 Act of 2011 FY 2012 – FY 2015 (\$ millions)					
	FY 2012	FY 2013	FY 2014	FY 2015	Four-Year Total
Increase in income tax collections	\$18.69	\$29.31	\$31.84	\$34.52	\$114.37

TABLE NOTE

- The estimate is based on a microsimulation model of individual income taxpayers and assumes that the legislation is effective January 1, 2011.

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

Background

The proposed subtitle would amend Alcohol Beverage Regulations¹⁰² to extend allowable hours for off-premise alcohol sales 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 code¹⁰³ 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

¹⁰¹ D.C. Official Code § 47-1806.03, Tax on residents and nonresidents--Imposition and rates.

¹⁰² D.C. Official Code § 25-722.

¹⁰³ D.C. Official Code § 47-2002(3A).

sales hours would increase the amount of alcohol sales, and therefore the tax collections from such sales.¹⁰⁴ 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.

Estimated Fiscal Impact of Subtitle (VIII)(N) – Off-Premises Amendments 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	\$5.26	\$5.42	\$5.57	\$5.68	\$21.93

TABLE NOTE

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

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

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

Background

The proposed subtitle would make Section 202 of the Ballpark Omnibus Financing and Revenue Act of 2004,¹⁰⁵ 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 Benefit Fund of real property and sales tax increment 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 FY 2013, real property and sales tax increment collected in the DC Ballpark TIF area would be deposited into the General Fund and would not be transferred to the Community Benefit Fund. The amount of such transfers is not known at this time.

¹⁰⁴ Alcohol sold in the District generates revenue in two ways. First, holders of manufacturer's or wholesales licenses 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% alcohol or less), 40¢ per gallon for heavy wine (over 14% 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 off-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, by about \$6,000.

¹⁰⁵ Effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1602.02).

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 60 special purpose revenue and dedicated tax funds would be repealed. Of these, 49 are codified in the District of Columbia Code (as detailed in Table 1a) and 21 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
§ 1-617.07	Payroll Service Fees	Various fees for special payroll services provided to employees	Reimburse the Office of Pay and Retirement Services for providing special services to employees on their payroll checks
§ 47-4405	Delinquent Tax Collections	Revenue from the collection fees that a private agency is authorized to charge to delinquent taxpayers	Costs of contracting with private collection agencies to collect delinquent taxes
§ 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.
§ 38-1101.01 – 38-1101.05 (to be codified)	Get DC Residents Training for Jobs Now Career Technical Training Fund	Annual transfer from NIF for technical education programs, grants and federal funds	An adult technical career training program for District residents in partnership with existing technical career training programs
§ 10-1016	Employee Parking	Dees paid by District employees for use of	For the: (1) maintenance and non-

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
	Program Fund	parking facilities in District owned-properties, and any interest earned on those amounts	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
§ 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
§ 42-3131.01	Nuisance Abatement Fund	(1) Fees, fines and penalties collected for violations of the law pertaining to insanitary buildings; (2) appropriations; (3) recoveries won by the AG in judicial enforcement actions against violators; (4) amounts donated to the fund by defendants as a condition of their probation; (5) grants or other donations; and (6) interest earned on the amounts in the fund.	Support a broad range of activities designed to address the problem of nuisance properties.
§ 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-	Defray the expenses of the Office of

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code

Code	Name of Fund	Source of Funds	Use of Funds
		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	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 Function Fund	Fees and additional charges for services rendered by the Surveyor of the District	Maintain and upgrade the surveying systems and enhancing customer service delivery by the Office of the Surveyor
§ 4-521	Shelter and Transitional Housing for Victims of Domestic Violence Fund	Transfer of \$3.7 million from the Crime Victims Assistance Fund to the Fund in, 2007	Award grants to organizations that serve victims of domestic violence in emergency shelters and transitional housing
§ 2-1831.05	Adjudication Fees and Fines	Portion of revenue paid in connection with any adjudicated case	Fund the administrative adjudication services provided by OAH
§ 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
24 DCR 1005	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	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</i>	Drug Interdiction and Demand Reduction	(1) Auction proceeds of real property, personal property, or assets seized through	Fund MPD law enforcement activities and substance abuse education,

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
<i>seq.</i>	Fund	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	prevention, and treatment activities of the Addiction Prevention and Recovery Administration
§ 8-1504(a)	Low-Level Radioactive Waste Fund ¹⁰⁶	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
§ 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	Permit fees paid by developers, gas companies, the Washington Metropolitan	Defray the costs of its electric bill from PEPCO

¹⁰⁶ Section 974 repeals the Fund, while Section 977 converts it to lapsing. It is our understanding that the intent is to repeal the Fund.

Subtitle IX- Table 1a. Repeal Funds with Citations in the D.C. Official Code			
Code	Name of Fund	Source of Funds	Use of Funds
	Project	Area Transit Authority, and individuals for installing, relocating, and removing streetlights	
§ 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
§ 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	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
§ 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

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
Defined Benefits Retirement Program Fund	0615	Department of Human Resource
Reimbursables from Other Governments Fund	1555	Department of Human Resources
Commercial Trust Fund	0622	Department of Small and Local Business

Subtitle IX- Table 1b. Repeal Funds with No Citation in the D.C. Official Code		
Reference	Fund Number	Agency
		Development
Data Processing Fund	1431	Metropolitan Police Department
Sale of Unclaimed Property	1607	Metropolitan Police Department
Automated Traffic Enforcement Fund	1660	Metropolitan Police Department
Vital Records	0606	Department of Health
Methadone Fees	0610	Department of Health
Food Handlers Certification	0612	Department of Health
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
Special Purpose Revenue	0600	Office of Campaign Finance
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 thirty nine 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, 23 are codified in the District of Columbia Code (as detailed in Table 2a) and 16 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
§ 25-210	Alcoholic Beverage Regulation Administration Fund	Alcoholic beverage licensing and permitting fees	Pay for the administrative and regulatory duties of the Alcoholic Beverage Regulation Administration
§ 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

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
			health and safety at special events
§ 38-302	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 Evaluation Fund	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
§ 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
§ 8-807.01	Solid Waste Nuisance Abatement Fund	All fines, penalties, interest, charges, and costs assessed in accordance with the District's solid waste disposal and management laws and regulations	Defray the costs of solid waste collection and the abatement of solid waste nuisances
§ 50-1507.06	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
§ 10-1202.08c	Robert F. Kennedy Memorial Stadium – D.C. Armory Fund	Payments made by the Washington Convention and Sports Authority	Maintain RFK Stadium and the non-military portion of the D.C. Armory.
§ 1-1432	DC-Net Support Services Fund	Payments for telecommunications services provided by D.C. Net to independent D.C. government agencies	Defray operational costs of the DC-Net program
§ 1-1433	Technology Infrastructure Services Support Fund	Payments to OCTO from independent D.C. government agencies that use the services of the Citywide Messaging, Citywide Security, IT ServUs, and Server Operations programs	Defray operational costs of the Citywide Messaging program the Citywide Security program, the IT ServUs program, and the Server Operations program
§ 39-501.01 <i>et seq.</i>	Film DC Special Account	Dees charged by the Office of Motion Picture and Television Development for applications for and issuances of public-space permits for	Defray operating expenses of the Office of Motion Picture and Television Development

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
		motion picture, television, and other media productions	
§ 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	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
Utilities Payment for Non-DC Agencies	1150	Office of Finance and Resource Management
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
Defined Contribution Plan Administration	0614	Office of the Chief Financial Officer
DC Lottery Reimbursement Fund	0619	Office of the Chief Financial Officer
Fixed Cost Payments for Non-DC Agencies	1150	Department of Real Estate Services
Reimbursable from Other Government (Police and Fire Clinic Reimbursement Fund)	1555	Metropolitan Police Department
Miscellaneous Fund within the Metropolitan Police Department	1614	Metropolitan Police Department

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
EMS Fees	0656	EMS Fees
Soil Erosion/Sediment Control Fund	0634	District Department of the Environment
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	6634	District Department of Transportation
General Revenues	0600	Department of Public Works

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 regulation¹⁰⁷; and 2) the Emergency and Non-Emergency Number Telephone Calling Systems Fund (“E-911 Fund”) to the monies and the interested earned on these monies collected from the monthly per line tax¹⁰⁸ and the prepaid wireless E911 charge of 2 percent of the sales price per retail transaction.¹⁰⁹ 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).^{110,111}

Financial Impact

The proposed subtitle abolishes 60 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 \$68.3 million in FY 2012 and by \$267.7 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 39 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.

¹⁰⁷ The intent is not entirely clear given the language.

¹⁰⁸ See D.C. Official Code § 34-1803

¹⁰⁹ See D.C. Official Code § 34-1803.02

¹¹⁰ See D.C. Official Code § 34-1803.01

¹¹¹ The language in the Fiscal Year 2012 Budget Support Act of 2011 does not clearly show this change, as a result of incorrect D.C. Code citations. However, we understand this to be the Mayor’s intent.

The Honorable Kwame R. Brown

FIS: Fiscal Year 2012 Budget Support Act of 2011, Legislation submitted to the Council on April 1, 2011

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.

TITLE X- BUDGET AND FINANCIAL PLAN FUND CHANGES

Subtitle (X)(A) – Fiscal Year 2011 Undesignations 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.¹¹² 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 Emergency and Contingency Reserves and bond escrow requirements.¹¹³ On the sources side, the lower-than-expected revenues have reduced the fund balance.¹¹⁴ 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.

¹¹² 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).

¹¹³ The increases in the reserved portion include \$53.6 million for the Emergency and Contingency Reserves and \$56.5 million for bond escrow.

¹¹⁴ 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.

Estimated Fiscal Impact of Title X – Fiscal Year 2011 Undesignations Act of 2011	
Type	FY 2011 Amount
Local Funds	\$68,634,151
Dedicated Taxes	\$12,107,971
Special Purpose Revenue	\$79,089,489
Total	\$159,831,611

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 the Fiscal Year 2012 Transfer Amendment Act of 2011			
Agency	Prior Transfer	New Transfer	Effect
Office of Property Management	\$2,255,000	\$700,000	(\$1,555,000)
Office of the Chief Financial Officer	\$13,776	\$0	(\$13,776)
Office of Tenant Management	\$600,000	\$0	(\$600,000)
Office of Tenant Management	\$576,036	\$0	(\$576,036)
D.C. Public Schools	\$72,207	\$64,492	(\$7,715)
Department of Health	\$4,000	\$0	(\$4,000)
Department of the Environment	\$20,764	\$0	(\$20,764)
Department of Insurance Securities & Banking	\$1,057,314	\$0	(\$1,057,314)
Department of Insurance Securities & Banking	\$342,868	\$0	(\$342,868)
Totals	\$4,941,965	\$764,492	(\$4,177,473)

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, Legislation submitted to the Council on April 1, 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.

TITLE XI- CAPITAL BUDGET AUTHORITY

Background

The proposed subtitle 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.

It also authorizes the Director of the Department of Transportation to purchase and operate streetcars in accordance with existing streetcar authorization.¹¹⁵

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.

¹¹⁵ DC Streetcar System Plan, published October 2010, as required by § 9.1208.01. <http://ddot.dc.gov/DC/DDOT/On+Your+Street/Mass+Transit+in+DC/DC+Streetcar/System+Plan+October+2010>