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

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**May 17, 2018**
SUBJECT:	**Updated Fiscal Impact Statement - Relieve High Unemployment Tax Incentives Act of 2018**
REFERENCE:	**Act 22-257, as enacted on February 7, 2018**

The fiscal impact statement issued for the Committee on Finance and Revenue mark-up held on November 29, 2017 reflected committee print language that required the Mayor to submit separate legislation to approve any tax incentive authorized under the Act. The Office of the Chief Financial Officer would have opined on the fiscal impact of each proposed tax incentive when submitted to Council. However, the enacted version made subsequent legislation optional, and this fiscal impact statement is updated to include the costs associated with the potential tax incentives. This statement replaces the statement issued on November 29, 2017.

Conclusion

Funds are not sufficient in the fiscal year 2018 budget and the proposed fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the Act. The Act authorizes the Mayor to approve applications for tax incentives from qualified private businesses and television and film-related businesses and is expected to cost $42.2 million over the period of the proposed budget and financial plan.[1]

The Act is subject to its inclusion in an approved budget and financial plan.

Background

The Act allows the Mayor to receive and approve tax abatement and tax credit applications from

[1] It is expected that tax incentives will be made available starting in fiscal year 2019 after the Mayor issues rules guiding the program.

qualified companies[2] or qualified tenants[3] in a high unemployment area. A high unemployment area is defined as a ward, or a part of a ward, that has an unemployment rate of seven percent or more for three consecutive months in a year, according to Department of Employment Services (DOES) unemployment statistics.[4]

The Mayor may approve applications from qualified companies for tax incentives including:

- Real property tax abatements of up to 100 percent of the real property tax otherwise due, for periods of up to 30 years;
- Personal property tax abatements of up to 100 percent of the personal property tax otherwise due, for periods of up to 30 years;
- Employment tax credits[5] of up to $3,000 on the wages paid to District residents, per employee per year, for up to 10 consecutive years but limited to $1.5 million per company; and
- Tax credits[6] of up to $2.50 per square foot to a qualified tenant in the retail or non-retail business, for up to 5 consecutive years.

The Act also allows the Mayor to receive and approve applications from up to three qualified film, television, and digital media production facilities and qualified films for a variety of different tax abatements and tax credits. Qualified film, television, and digital media production facilities do not require a minimum investment but must include at least one studio of at least 7,000 square feet and two studios of at least 20,000 square feet. Qualified films are eligible for a tax credit[7] of 10 percent on eligible production costs for a qualified film so long as 75 percent of the stage work is conducted at a qualified film, television, and digital media production facility.

The Act specifies that the Mayor shall approve applications if the Mayor determines that the proposed project has a substantial possibility of decreasing the unemployment rate in the high unemployment area and that 50 percent of the full-time employees are District residents. The Act further permits, but does not require, the Mayor to submit legislation to Council that would authorize any approved abatements or credits. The Act requires the Mayor to annually certify to the Office of Tax and Revenue an approved entity's continued eligibility for a tax abatement or tax credit.

The Act also authorizes the Mayor to establish a Tax Increment Financing (TIF) area to assist with public and private infrastructure improvements in a high unemployment area. Any TIF areas established in a high unemployment area should not conflict with or be detrimental to the Act's other tax incentives. The TIF areas are subject to Council approval[8] and the Mayor's authorization

[2] A qualified company is one that invests a minimum of $50 million in a building located in a high unemployment area.
[3] A qualified tenant is one that signs a lease of at least three years in a high unemployment area.
[4] Current DOES unemployment statistics do not describe areas smaller than a ward. Additionally, the ward unemployment rates DOES reports monthly rely, in part, on annual American Community Survey population estimates. Ward unemployment rates therefore have a greater margin of error than rates reported for the District as a whole.
[5] The bill does not specify the tax against which such credit may be provided, nor if the credit is refundable.
[6] The bill does not specify the tax against which such credit may be provided, nor if the credit is refundable.
[7] The bill does not specify the tax against which such credit may be provided, nor if the credit is refundable.
[8] Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01 et seq.).

to establish a TIF in a high unemployment area will sunset ten years after the effective date of this Act.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2018 budget and the proposed fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the Act. The Act authorizes tax incentives which would be available to real estate projects, businesses, tenants, film/media production studios, and film/media production activities located in high unemployment areas. Current unemployment statistics indicate that projects and activities in Wards 5, 7, and 8 would be eligible to apply for tax abatements and credits. Additional areas or Wards of the District would likely qualify if the District were to experience another recession such as the one experienced in 2008 to 2009.

The tax incentives for qualified companies and qualified tenants are expected to cost approximately $6.2 million annually in reduced personal property and real property taxes. This cost includes the tax credits for qualifying employment and rental activities, but the Act does not specify which taxes a credit may be claimed against nor if it is refundable. The cost estimate assumes the credits are refundable. The Act also provides a tax credit for production costs for a qualified film production, that is expected to cost approximately $4.4 million annually. The Act also does not specify which District taxes this credit can be claimed against nor if it is refundable, but it is assumed to be refundable in this analysis.

The Act neither specifies the type of tax credits that may be provided nor the amount of such credit for film, television, and digital media production facilities and therefore no cost estimate has been included. The OCFO will incorporate the fiscal impact of such credits into the revenue estimates when they are further defined through executive rule-making or if the Act is amended in budget legislation.

The TIF authorization for high unemployment areas is also not included in this analysis, but the Mayor must submit any TIF legislation to Council for approval and the Office of the Chief Financial Officer will opine on any costs at that time.

Relieve High Unemployment Tax Incentives Act of 2018
Act 22-257
Implementation Costs
Fiscal Year 2018 – Fiscal Year 2022
($000s)

	FY 2018[a]	FY 2019	FY 2020	FY 2021	FY 2022	Total
Personal Property Tax	$0	$79	$79	$79	$79	**$316**
Real Property Tax	$0	$3,897	$4,026	$4,151	$4,280	**$16,354**
Employment Incentives	$0	$1,264	$1,279	$1,293	$1,305	**$5,141**
Rental Incentives	$0	$674	$696	$718	$740	**$2,828**
Film Production Credits	$0	$4,244	$4,346	$4,450	$4,557	**$17,597**
Total[b]	**$0**	**$10,158**	**$10,426**	**$10,691**	**$10,961**	**$42,236**

Table Notes
[a] The Mayor must issue rules to implement the Act and it is assumed the tax incentives will not be taken until fiscal year 2019.
[b] The implementation of the film, television, and digital media production facilities and the TIF are not included in the total.