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

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

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

FROM: **Natwar M. Gandhi**
Chief Financial Officer

DATE: **June 17, 2011**

SUBJECT: **Fiscal Impact Statement – "New Issue Bond Program Tax Exemption Amendment Act of 2011"**

REFERENCE: **Bill Number 19-20, As Introduced**

Conclusion

Funds are not sufficient in the proposed FY 2012 through FY 2015 proposed budget and financial plan to implement the proposed legislation. The proposed legislation would cost approximately $413,004 in FY 2012 including refunds for taxes already paid. No other costs are expected in the out-years.

Background

The proposed legislation would amend the District of Columbia Real Estate Deed Recordation Tax Act of 1962 to exempt deeds or deeds of trust, and other security instruments (collectively "security instruments") for conveying, vesting, granting, or assigning title to, an interest in, a security interest in, or an economic interest in real property that is to be developed into affordable housing and is funded in whole or in part by the issuance of District of Columbia Housing Finance Agency ("DCHFA") bonds pursuant to the U.S. Department of Treasury's New Issuance Bond Program ("NIBP").

The NIBP is a time-limited program intended to help state and local housing finance agencies (HFAs), like DCHFA, by issuing low-interest rate bonds to these entities to support the construction of affordable housing. The NIBP is a two-year program that started in 2010 and is set to expire at the end of 2011. Under the program, the housing providers that borrow money from HFAs under the NIBP are required to insure or "credit enhance" the loans with Fannie Mae or Freddie Mac. In some instances, Fannie Mae and Freddie Mac choose to also insure the loan through a private insurer. When this occurs, the loan is then subject to the District's recordation tax, as current law does not exempt security instruments of for-profit organizations from recordation taxes.

Financial Plan Impact

Funds are not sufficient in the proposed FY 2012 through FY 2015 budget and financial plan to implement the proposed legislation. The proposed legislation would cost approximately $413,004 in FY 2012 including refunds for taxes already paid. No other costs are expected in the out-years.

According to the DCHFA, in 2010, three housing providers were granted loans through NIBP that were subject to recordation taxes as a result of Fannie Mae or Freddie Mac opting to credit enhance the loans through a private insurer. The total amount of recordation taxes paid by these three borrowers on their loans was $203,450, with an average tax bill of $68,715.

DCHFA estimates an additional three loans to close by December 31, 2011 that could also be subject to recordation taxes as a result of Fannie Mae or Freddie Mac opting to insure the loan through a private insurer.[1] It is not possible to know the exact amount of recordation taxes owed at this time, as the financial transactions are in varying stages of the closing process. Therefore, it is assumed that the average taxable value of the properties will be similar to those closed in 2010. Given the growth in the assessed value of similar properties between 2010 and 2011, the total cost of forgiving recordation taxes for three additional NIBP loans would be $209,554 in FY 2012.

There is no fiscal impact after FY 2012, as the NIBP program is set to expire on December 31, 2011.

Estimated Fiscal Impact of Bill 19-20 - New Issue Bond Program Tax Exemption Amendment Act of 2011, FY 2012 – FY 2015					
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**Four -Year Total**
Refund of Past Taxes Owed	$203,450	$0	$0	$0	**$203,450**
Estimated Tax Liability for Future Transactions	$209,554	$0	$0	$0	**$209,554**
Negative Fiscal Impact	**$413,004**	$0	$0	$0	**$413,004**

Table Assumptions:

- The legislation is enacted in FY 2012; thus all tax refunds are issued in FY 2012.
- Three of the seven projects that will be financed through NIBP in the next 6 to 12 months will be subject to recordation taxes.
- The average tax bill for the three projects to be closed in FY 2012 is $69,851.

[1] DCHFA's estimate is based on their current knowledge of the financial transactions for each project. DCHFA expects seven additional projects to be financed through NIBP by December 31, 2011, and all of these projects are in varying stages of the closing process.