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

Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey DeWitt** **Chief Financial Officer**
DATE:	**November 25, 2014**
SUBJECT:	**Fiscal Impact Statement – "New York Avenue Gateway Development and Financial Incentives Act of 2014"**
REFERENCE:	**Bill 20-564, Draft Committee Print as shared with the Office of Revenue Analysis on November 25, 2014**

Conclusion

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

The bill offers a number of tax incentives and authorizes the Mayor to prepare incentives packages for developers and businesses located around New York Avenue. The Mayor would be required to submit further approval legislation to the Council for each incentive package that uses the incentives and credits offered by the bill. These sections of the bill, which authorize, but do not require, the Mayor to offer a set of incentives, do not have a fiscal impact. The Office of the Chief Financial Officer will analyze the fiscal impact of each economic incentive package authorized under the bill separately as these packages are submitted to the Council for approval.

The Council should note that the flat tax provision in the bill, which would allow firms to pay a gross receipts tax in lieu of corporate or unincorporated business franchise tax, deed taxes, and sales taxes related to construction materials, creates a new tax that is not currently administered by the District, and will require significant resources to administer, if at all can be done, even if only a handful of entities took advantage of it. The Council should also note that the remainder of the economic incentive provisions offered in the bill are very broad and cannot be administered properly without further clarifications.

Background

The bill provides for the Mayor's consideration a set of economic development policies to encourage commercial development in New York Avenue corridor. The bill does not obligate the Mayor to use these tools; nor does it commit the District to new tax expenditures or programs.

The bill then lists economic development incentives the Mayor may use to meet the bill's stated goals. Should the Mayor choose to implement any of the listed incentives, the Mayor would negotiate an incentive package with an eligible developer or business, and then send the economic development incentive package for approval to the Council. At that time, the Mayor would identify funding for the proposed incentives.

The bill has the following provisions:

First, it defines the New York Avenue Gateway Development Zone,[1] which would be the target for the proposed economic development incentives.

Second, it authorizes the Mayor to negotiate and grant any one or all of the incentives in the bill, or any other incentives provided by law or his or her discretion, to support the stated goals of the bill. The bill directs the Mayor to give greater weight to projects that would increase affordable lease space, affordable housing, and jobs, among other things. The projects could be in or in close proximity to the Development Zone. The bill directs the developer to seek economic incentives under this bill, and the Mayor to submit the negotiated package to the Council for approval.

Third, the bill provides a set of tax incentives and credits for eligible projects in the Development Zone, which include

- *A real property tax abatement that freezes real property taxes for a set period for hotels built in the Development Zone*. The abatement would be 20 or 30 years depending on the type of the hotel. At the end of the abatement period, the taxes will gradually increase over a five-year period until the assessed value is fully taxed. The eligible hotels include both new ones, and those constructed in the Development Zone in the last 10 years. Hotels with residential components, projects with sound studios and projects with total development costs of $40 million or more qualify for abatements similar to three-star hotels, while proposed projects that have a total development cost of over $20 million qualify for abatements similar to two-star hotels. The Mayor is directed to ensure that a portion of the property that received the proposed real property abatement would be set aside at affordable rates for certified business enterprises.[2]
- *A flat tax in lieu of franchise taxes, deed taxes, and sales and use taxes for construction materials.* The flat tax rate would equal to five percent of the gross receipts of the eligible business entity for 30 years.
- *An employment tax credit for D.C. residents employed in a business in the Development Zone.* The bill authorizes up to $10,000 tax credits per qualified employee, limited at $1.5 million

[1] The zone would include the area from the, intersection of New York Avenue, N.E. and Florida Avenue, N.E., east along New York Avenue, N.E. (both sides), including the Capital City Market to the Maryland border, and North along Bladensburg Road, NE to South Dakota Avenue, NE, East on South Dakota Avenue, to where it intersects with New York Avenue, NE.
[2] The bill does not specify a measure of affordability.

per year per employer. The credit would be available for 20 years, and then the provision would sunset.

- *A rental tax credit of up to $2.50 per square foot in the Development Zone for up to 10 consecutive years.* The bill requires that a developer who uses rental tax credits must set aside a portion of the development for certified business enterprises. The tax credit provision will be available for 25 years for the Mayor's use, and then it will sunset.

The bill requires the Mayor to submit each incentive package negotiated with businesses and developers to Council for approval. The Mayor would also certify to the Office of Tax and Revenue the identity of each applicant that the Mayor has approved for a tax incentive, including details about the tax incentive offered. But these would be also incorporated in the approval legislation.

Fourth, the bill proposes that the Mayor provide support, including land dispositions, for the construction of film and television production facilities. The bill suggests, but does not require, the use of the Crummell School Site[3] to encourage private development of up to three sound studios, if the developer or developers restore the historical building to include in its use plan a recreational center, a daycare facility, a job training facility and other features for community use.

Fifth, the bill authorizes, but does not require the Mayor to establish a job training program including a classroom, field training, and mentoring services for new jobs created in the Development Zone. The Mayor could use an existing training program, or negotiate with developers in the Development Zone for funding for these programs.

Sixth, the bill requires that Ward 5 residents to be given priority for the training program or any other affordable retail and non-retail space offered as a result of the rental tax credits.

Financial Plan Impact

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

The provisions of the bill that authorize the Mayor to offer economic and tax incentive packages, including the abatements and credits suggested by the bill, does not have a fiscal impact. The Mayor is already authorized to offer such incentives, and the Council would be approve through legislative action the offered package, as it does for any other economic incentive bill the Mayor proposes.

The Council should note that while providing this authority to the Mayor does not have a fiscal impact, offering tax incentives and abatements would have a cost. The Office of Revenue Analysis will score the fiscal impact of each incentive package authorized under this bill if the Mayor submits approval legislation to the Council.

The Council should also note that as drafted, some of the proposed incentives are very broad, not well defined, and therefore not possible to administer. To note:

- The flat tax provision is creating a new tax that is not currently administered by the District, and will require significant resources to administer, if at all can be done, even if only a handful of entities took advantage of it.

[3] The Alexander Crummell School is located at 1900 Gallaudet and Kendall Streets, N.E., Washington, D.C.

- The two tax credit provisions (employer and tenant) does not specify the taxes against which these credits are taken.
- The rental tax credit provision does not describe how developers, who are presumably not tenants, will take advantage of this credit.
- The bill does not clarify what type of entity would qualify for a 20-year property abatement and what kind would qualify for a 30-year abatement.
- The bill uses the terms "business" and "developer" interchangeably, but the tax implications are very different for these two groups.
- Many other definitions in the bill do not comport with what is in the District's Official Code.

The provision that authorizes the Mayor to provide support for construction of film and television production facilities does not have a fiscal impact. The Mayor is already authorized to negotiate such agreements, and would still be required to submit approval legislation to the Council. The disposition of any public land, including the Crummell School site, will reduce District's assets, but this would not be a fiscal impact, since asset values are not a part of the District's budget and financial plan.

Finally, the bill authorizes, but does not require, the Mayor to develop a training program for residents of Ward 5, unless an existing program meets the requirements of the bill. The bill encourages the Mayor to pay for the said training program using contributions from developers benefiting from the incentives authorized in this bill. This does not have a fiscal impact, but should the Mayor choose to implement this provision, the training program will have a cost. The costs cannot be reliably estimated at this time, since the bill does not specify the capacity or the focus of the program, and the fiscal impact is not known since it is not clear how the Mayor will pay for this program.