
COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT

KENYAN R. McDUFFIE, CHAIRPERSON
FISCAL YEAR 2021 COMMITTEE BUDGET REPORT



TO: Members of the Council of the District of Columbia

FROM: Councilmember Kenyan R. McDuffie
Chairperson, Committee on Business and Economic Development

DATE: June 25, 2020

SUBJECT: Report and Recommendations of the Committee on Business and Economic Development on the Fiscal Year 2021 Budget for Agencies Under Its Purview

The Committee on Business and Economic Development (“Committee”), having conducted hearings and received testimony on the Mayor’s proposed operating and capital budgets for Fiscal Year 2021 (“FY 2021”) for the agencies under its purview, reports its recommendations for review and consideration by the Committee of the Whole. The Committee also comments on several sections in the Fiscal Year 2021 Budget Support Act of 2020, as proposed by the Mayor.

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I. SUMMARY

A. FISCAL YEAR 2021 AGENCY OPERATING BUDGET SUMMARY

Alcoholic Beverage Regulation Administration						
LOCAL FUND	\$0	\$0		\$359,247	\$359,247	
DEDICATED TAXES	\$1,146,175	\$1,170,000	\$1,193,826		\$1,193,826	2.0%
SPECIAL PURPOSE REVENUE FUNDS (OTYPE)	\$6,798,874	\$7,957,758	\$8,710,960	\$351,357	\$9,062,316	13.9%
OPERATING INTRA-DISTRICT FUNDS	\$0	\$0			\$0	
TOTAL GROSS FUNDS	\$7,945,049	\$9,127,758	\$9,904,785	\$710,604	\$10,615,389	16.3%
Business Improvement Districts Transfer						
SPECIAL PURPOSE REVENUE FUNDS (OTYPE)	\$27,693,693	\$55,000,000	\$50,000,000		\$50,000,000	-9.1%
TOTAL GROSS FUNDS	\$27,693,693	\$55,000,000	\$50,000,000	\$0	\$50,000,000	-9.1%
Department of Insurance, Securities & Banking						
LOCAL FUND	\$0	\$0			\$0	
FEDERAL GRANT FUND	\$452,433	\$139,000	\$139,000		\$139,000	0.0%
PRIVATE GRANT FUND	\$44,800	\$0			\$0	
PRIVATE DONATIONS	\$0	\$0			\$0	

SPECIAL PURPOSE REVENUE FUNDS ('O' TYPE)	\$20,496,708	\$27,773,358	\$32,877,001	-\$591,698	\$32,285,303	16.2%
OPERATING INTRA-DISTRICT FUNDS	\$119,178	\$133,000	\$133,000		\$133,000	0.0%
TOTAL GROSS FUNDS	\$21,113,119	\$28,045,358	\$33,149,001	-\$591,698	\$32,557,303	16.1%
Department of For-Hire Vehicles						
LOCAL FUND	\$5,792,023	\$5,895,397	\$5,889,397		\$5,889,397	-0.1%
SPECIAL PURPOSE REVENUE FUNDS ('O' TYPE)	\$10,045,332	\$13,223,982	\$10,922,246	-\$21,000	\$10,901,246	-17.6%
OPERATING INTRA-DISTRICT FUNDS	\$780,584	\$830,000	\$1,016,000		\$1,016,000	22.4%
TOTAL GROSS FUNDS	\$16,617,939	\$19,949,379	\$17,827,643	-\$21,000	\$17,806,643	-10.7%
Department of Small and Local Business Development						
LOCAL FUND	\$15,347,699	\$15,953,474	\$15,213,555	\$710,740	\$15,924,294	-0.2%
FEDERAL GRANT FUND	\$418,992	\$471,180	\$558,907		\$558,907	18.6%
SPECIAL PURPOSE REVENUE FUNDS ('O' TYPE)	\$802,327	\$0			\$0	
OPERATING INTRA-DISTRICT FUNDS	\$202,500	\$0			\$0	
TOTAL GROSS FUNDS	\$16,771,518	\$16,424,654	\$15,772,461	\$710,740	\$16,483,201	0.4%
Deputy Mayor for Planning and Economic Development						
LOCAL FUND	\$34,077,769	\$26,585,468	\$24,302,051	\$1,599,918	\$25,901,969	-2.6%
FEDERAL PAYMENTS	\$0	\$0			\$0	
FEDERAL GRANT FUND	\$0	\$0	\$0		\$0	
SPECIAL PURPOSE REVENUE FUNDS ('O' TYPE)	\$11,005,987	\$16,552,206	\$5,339,394		\$5,339,394	-67.7%
OPERATING INTRA-DISTRICT FUNDS	\$16,088	\$0			\$0	
TOTAL GROSS FUNDS	\$45,099,844	\$43,137,674	\$29,641,444	\$1,599,918	\$31,241,363	-27.6%
Emergency and Contingency Reserve Funds						
LOCAL FUND	\$0	\$0	\$0		\$0	
TOTAL GROSS FUNDS	\$0	\$0	\$0	\$0	\$0	#DIV/0!
Medical Liability Captive Insurance Agency						
LOCAL FUND	\$3,401,314	\$2,152,183	\$3,744,472		\$3,744,472	74.0%
SPECIAL PURPOSE REVENUE FUNDS ('O' TYPE)	\$0	\$888,811	\$667,502		\$667,502	-24.9%
OPERATING INTRA-DISTRICT FUNDS	\$85,267	\$0			\$0	

TOTAL GROSS FUNDS	\$3,486,581	\$3,040,994	\$4,411,974	\$0	\$4,411,974	45.1%
Office of Finance and Resource Management						
LOCAL FUND	\$26,480,439	\$28,468,456	\$30,649,572		\$30,649,572	7.7%
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	\$225,454	\$273,210	\$300,351		\$300,351	9.9%
OPERATING INTRA-DISTRICT FUNDS	\$9,090,630	\$10,396,201	\$9,954,315		\$9,954,315	-4.3%
TOTAL GROSS FUNDS	\$35,796,523	\$39,137,867	\$40,904,237	\$0	\$40,904,238	4.5%
Office of Lottery and Charitable Games						
LOCAL FUND	\$0	\$0			\$0	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	\$6,612	\$0			\$0	
ENTERPRISE AND OTHER FUNDS	\$213,359,831	\$211,973,874	\$507,308,471		\$507,308,471	139.3%
TOTAL GROSS FUNDS	\$213,366,444	\$211,973,874	\$507,308,471	\$0	\$507,308,471	139.3%
Office of the People's Counsel						
LOCAL FUND	\$610,611	\$689,246	\$689,246		\$689,246	0.0%
PRIVATE GRANT FUND	\$10,000	\$0			\$0	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	\$9,024,883	\$9,314,748	\$9,880,144		\$9,880,144	6.1%
TOTAL GROSS FUNDS	\$9,645,494	\$10,003,994	\$10,569,390	\$0	\$10,569,390	5.7%
Office of the Chief Financial Officer						
LOCAL FUND	\$129,063,430	\$138,588,649	\$137,617,895	-\$35,114	\$137,582,781	-0.7%
FEDERAL GRANT FUND	\$648,747	\$450,000	\$450,000		\$450,000	0.0%
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	\$18,327,198	\$43,622,353	\$45,339,334		\$45,339,334	3.9%
OPERATING INTRA-DISTRICT FUNDS	\$10,381,050	\$10,859,491	\$9,198,640		\$9,198,640	-15.3%
TOTAL GROSS FUNDS	\$158,420,425	\$193,520,493	\$192,605,869	-\$35,114	\$192,570,755	-0.5%
Public Service Commission						
FEDERAL GRANT FUND	\$485,327	\$581,000	\$581,000		\$581,000	0.0%
PRIVATE DONATIONS	\$13,358	\$12,000	\$14,000		\$14,000	16.7%
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	\$14,266,249	\$15,692,793	\$16,950,601		\$16,950,601	8.0%
TOTAL GROSS FUNDS	\$14,764,933	\$16,285,793	\$17,545,601	\$0	\$17,545,601	7.7%
GRAND TOTAL	\$570,721,563	\$645,647,839	\$929,640,878	\$2,373,450	\$932,014,328	44.4%

C. FISCAL YEAR 2021 AGENCY FULL-TIME EQUIVALENTS

Fund Type	FY 2019 Actuals	FY 2020 Approved	Mayor's FY 2021 Proposed	Committee Variance	Committee's FY 2021 Recommendation	Percent Change
Alcoholic Beverage Regulation Administration						
LOCAL FUND	0.0	0.0		1.00	1.00	
DEDICATED TAXES	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	52.3	59.0	60.0	5.00	65.00	10.2%
OPERATING INTRA- DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	52.32	59.00	60.00	6.00	66.00	11.9%
Business Improvement Districts Transfer						
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	0.00	0.00	0.00		0.00	
TOTAL FTE	0.00	0.00	0.00	0.00	0.00	
Department of Insurance, Securities & Banking						
LOCAL FUND	0.0	0.0			0.00	
FEDERAL GRANT FUND	0.0	0.0	0.0		0.00	
PRIVATE GRANT FUND	0.0	0.0			0.00	
PRIVATE DONATIONS	0.0	0.0			0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	126.0	144.0	144.0	(5.00)	117.00	-18.8%
OPERATING INTRA- DISTRICT FUNDS	0.0	0.0	0.0		0.00	
TOTAL FTE	126.01	144.00	144.00	(5.00)	117.00	18.8%
Department of For-Hire Vehicles						
LOCAL FUND	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	60.1	70.0	70.0		70.00	0.0%
OPERATING INTRA- DISTRICT FUNDS	0.0	0.0	0.0		0.00	
TOTAL FTE	60.06	70.00	70.00	0.00	70.00	0.0%
Department of Small and Local Business Development						
LOCAL FUND	48.8	48.3	50.3		50.00	3.6%
FEDERAL GRANT FUND	3.0	3.8	3.8		3.00	-20.0%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	0.0	0.0			0.00	

OPERATING INTRA-DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	51.83	52.00	54.00	0.00	53.00	1.9%
Deputy Mayor for Planning and Economic Development						
LOCAL FUND	67.2	72.0	74.0	(1.00)	73.00	1.4%
FEDERAL PAYMENTS	0.0	0.0			0.00	
FEDERAL GRANT FUND	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	11.0	17.0	17.0		17.00	0.0%
OPERATING INTRA-DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	78.21	89.00	91.00	(1.00)	90.00	1.1%
Emergency and Contingency Reserve Funds						
LOCAL FUND	0.00	0.00	0.00		0.00	
TOTAL FTE	0.00	0.00	0.00	0.00	0.00	
Medical Liability Captive Insurance Agency						
LOCAL FUND	4.0	4.0	4.0		4.00	0.0%
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	0.0	0.0	2.0		2.00	
OPERATING INTRA-DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	4.00	4.00	6.00	0.00	6.00	50.0%
Office of Finance and Resource Management						
LOCAL FUND	33.9	39.0	41.0		40.00	2.6%
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	0.0	0.0	0.0		0.00	
OPERATING INTRA-DISTRICT FUNDS	7.1	6.0	6.0		6.00	0.0%
TOTAL FTE	40.95	45.00	47.00	0.00	46.00	2.2%
Office of Lottery and Charitable Games						
LOCAL FUND	0.0	0.0			0.00	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	0.0	0.0			0.00	
ENTERPRISE AND OTHER FUNDS	67.0	76.5	88.5		87.00	13.7%
TOTAL FTE	66.99	76.50	88.50	0.00	87.00	13.7%
Office of the People's Counsel						
LOCAL FUND	5.0	8.0	6.0		6.00	-25.0%
PRIVATE GRANT FUND	0.0	0.0			0.00	

SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	44.4	45.4	46.4		42.00	-7.5%
TOTAL FTE	49.40	53.40	52.40	0.00	48.00	10.1%
Office of the Chief Financial Officer						
LOCAL FUND	818.0	870.0	868.0		868.00	-0.2%
FEDERAL GRANT FUND	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	54.8	61.0	70.0		70.00	14.8%
OPERATING INTRA-DISTRICT FUNDS	47.0	56.0	50.0		49.00	-12.5%
TOTAL FTE	919.73	987.00	988.00	0.00	987.00	0.0%
Public Service Commission						
FEDERAL GRANT FUND	3.3	3.5	3.3		3.00	-14.0%
PRIVATE DONATIONS	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS ('O'TYPE)	70.3	82.1	86.4		77.00	-6.2%
TOTAL FTE	73.64	85.61	89.60	0.00	80.00	-6.6%
GRAND TOTAL	1,523.14	1,665.51	1,690.50	0.00	1,650.00	-0.9%

D. FY 2021 - 2026 AGENCY CAPITAL BUDGET SUMMARY

Project No	Project Title	Owner Agency	Allotment Scenario	Sum of Unspent Allotment as of 5-16-20	Sum of Available Allotment as of 5-16-20 (includes Pre-Encumbrances)	Sum of FY 2021	Sum of FY 2022	Sum of FY 2023	Sum of FY 2024	Sum of FY 2025	Sum of FY 2026	Sum of FY 2021-FY 2026 Total	
AMS1 1C	MCMILLAN SITE REDEVELOPMENT	EBO	Approved FY20 CIP for FY21-25	0	0	5,000,00	14,000,00	12,000,00	21,747,706	0	0	52,747,706	
			Mayor's Proposed FY21 CIP Change	0	0	14,835,635	23,372,664	(3,835,908)	(11,536,756)	0	0	22,835,635	
			Available Balances	37,143,264	17,780,856	0	0	0	0	0	0	0	0
			EBO Total	37,143,264	17,780,856	19,835,635	37,372,664	8,164,092	10,210,950	0	0	0	75,583,341
			AMS1 1C Total	37,143,264	17,780,856	19,835,635	37,372,664	8,164,092	10,210,950	0	0	0	75,583,341
ASC1 3C	SKYLAND SHOPPING CENTER	EBO	Available Balances	1,432,622	8,260	0	0	0	0	0	0	0	
			EBO Total	1,432,622	8,260	0	0	0	0	0	0	0	
			ASC1 3C Total	1,432,622	8,260	0	0	0	0	0	0	0	
AWR 01C	SAINT ELIZABETHS E CAMPUS INFRASTRUCTURE	EBO	Approved FY20 CIP for FY21-25	0	0	35,000,00	35,000,00	0	0	0	0	70,000,00	
			Mayor's Proposed FY21 CIP Change	0	0	34,670,841	10,000,000	7,900,000	0	0	0	52,570,841	
			Available Balances	40,889,951	35,000,229	0	0	0	0	0	0	0	
			EBO Total	40,889,951	35,000,229	35,000,000	45,000,000	7,900,000	0	0	0	0	
			AWR 01C Total	40,889,951	35,000,229	35,000,000	45,000,000	7,900,000	0	0	0	0	

				40,889,951	35,000,229	69,670,841	45,000,000	7,900,000				122,570,841
			EBO Total									
AWR 01C Total				40,889,951	35,000,229	69,670,841	45,000,000	7,900,000				122,570,841
AWT0 1C	WALTER REED REDEVELOPMENT			1,340,800		1,059,665	0	0	0	0	0	0
		EBO	Available Balances	0								
				1,340,800								
			EBO Total	0	1,059,665	0	0	0	0	0	0	0
AWT0 1C Total				1,340,800	1,059,665	0	0	0	0	0	0	0
BF20 5C	FMS REP			(1,500,000)	(1,500,000)	0	0	0	0	0	0	0
		ATO	Available Balances	0								
				(1,500,000)	(1,500,000)							
			ATO Total	0		0	0	0	0	0	0	0
BF20 5C Total				(1,500,000)	(1,500,000)	0	0	0	0	0	0	0
BF30 3C	MODERNIZED BUDGET ANALYTICS			3,500,000	3,500,000	0	0	0	0	0	0	0
		ATO	Available Balances	0								
				3,500,000								
			ATO Total	0	3,500,000	0	0	0	0	0	0	0
BF30 3C Total				3,500,000	3,500,000	0	0	0	0	0	0	0
BF30 4C	DCSRP - SOAR MODERNIZATION			4,889,030	758,007	0	0	0	0	0	0	0
		ATO	Available Balances	0								
				4,889,030								
			ATO Total	0	758,007	0	0	0	0	0	0	0
BF30 4C Total				4,889,030	758,007	0	0	0	0	0	0	0
BP10 1C	HEADQUARTER PROJECTS FROM CT			85,361	0	0	0	0	0	0	0	0
		CIO	Available Balances									
				85,361	0	0	0	0	0	0	0	0
			CIO Total	85,361	0	0	0	0	0	0	0	0
BP10 1C Total				85,361	0	0	0	0	0	0	0	0
BP10 2C	SMALL CAPITAL PROJECTS			934,534	0	0	0	0	0	0	0	0
		CIO	Available Balances									
				934,534	0	0	0	0	0	0	0	0
			CIO Total	934,534	0	0	0	0	0	0	0	0
BP10 2C Total				934,534	0	0	0	0	0	0	0	0
CHN1 9C	CHILDREN'S NATIONAL			10,000,000	10,000,000	0	0	10,000,000	0	0	0	10,000,000
		EBO	Approved FY20 CIP for FY21-25	0	0	0	0	0	0	0	0	0
			Mayor's Proposed FY21 CIP Change	0	0	0	0	0	0	0	0	0
			Available Balances	10,000,000	10,000,000	0	0	0	0	0	0	0
				10,000,000	10,000,000	0	0	10,000,000	0	0	0	10,000,000
			EBO Total	0	0	0	0	0	0	0	0	0
CHN1 9C Total				10,000,000	10,000,000	0	0	10,000,000	0	0	0	10,000,000
CIM0 1C	CAPITAL ASSET REPLACEMENT SCHEDULING SYS			670,493	670,403	795,000	355,000	0	0	0	0	1,150,000
		ATO	Mayor's Proposed FY21 CIP Change	0	0	0	0	0	0	0	0	0
			Available Balances	670,493	670,403	0	0	0	0	0	0	0
				670,493	670,403	795,000	355,000	0	0	0	0	1,150,000
			ATO Total	0	0	0	0	0	0	0	0	0
CIM0 1C Total				670,493	670,403	795,000	355,000	0	0	0	0	1,150,000
CSP0 8C	INTEGRATED TAX SYSTEM MODERNIZATION			12,026,404	5,133,011	0	0	0	0	0	0	0
		ATO	Available Balances									
				12,026,404	5,133,011	0	0	0	0	0	0	0
			ATO Total									
CSP0 8C Total				12,026,404	5,133,011	0	0	0	0	0	0	0
CSP1 0C	IT SYSTEM UPGRADES			1,486,351	1,486,351	1,523,062	1,932,088	0	0	0	0	3,455,150
		ATO	Approved FY20 CIP for FY21-25	0	0	0	0	0	0	0	0	0
			Available Balances	1,486,351	1,486,351	0	0	0	0	0	0	0
				1,486,351	1,486,351	1,523,062	1,932,088	0	0	0	0	3,455,150
			ATO Total	0	0	0	0	0	0	0	0	0
CSP1 0C Total				1,486,351	1,486,351	1,523,062	1,932,088	0	0	0	0	3,455,150
DHA0 0C	DCHA - DEVELOPMENT			0	0	46,000,000	30,000,000	0	0	0	0	76,000,000
		EBO	Mayor's Proposed FY21 CIP Change									

		AND REHABILITATION									
		Committee's FY21 Recommendation									
			0	0	376,438	0	0	0	0	0	376,438
		EBO Total	0	0	46,376,438	30,000,000	0	0	0	0	76,376,438
DHA0					46,376,438	30,000,000					76,376,438
0C											
Total			0	0	46,376,438	30,000,000	0	0	0	0	76,376,438
EB00	TEMPLE COURTS / NW1 REDEVELOPMENT	EBO	Available Balances	79,832	79,832	0	0	0	0	0	0
1C											
		EBO Total		79,832	79,832	0	0	0	0	0	0
EB00				79,832	79,832	0	0	0	0	0	0
1C											
Total				79,832	79,832	0	0	0	0	0	0
EB00	MP-NEW COMMUNITIES	EBO	Approved FY20 CIP for FY21-25	0	0	20,000,000	10,000,000	5,000,000	10,000,000	10,000,000	55,000,000
8C			Mayor's Proposed FY21 CIP Change	0	0	(20,000,000)	(10,000,000)	(5,000,000)	(10,000,000)	(10,000,000)	(55,000,000)
			Available Balances	45,497,048	22,164,150	0	0	0	0	0	0
		EBO Total		45,497,048	22,164,150	0	0	0	0	0	0
EB00				45,497,048	22,164,150	0	0	0	0	0	0
8C											
Total				45,497,048	22,164,150	0	0	0	0	0	0
EB01	BARRY FARM, PARK CHESTER, WADE ROAD	EBO	Available Balances	2,737,879	2,704,150	0	0	0	0	0	0
3C											
		EBO Total		2,737,879	2,704,150	0	0	0	0	0	0
EB01				2,737,879	2,704,150	0	0	0	0	0	0
3C											
Total				2,737,879	2,704,150	0	0	0	0	0	0
EB01	FORT LINCOLN NEW TOWN DEVELOPMENT	EBO	Available Balances	154,571	154,571	0	0	0	0	0	0
4C											
		EBO Total		154,571	154,571	0	0	0	0	0	0
EB01				154,571	154,571	0	0	0	0	0	0
4C											
Total				154,571	154,571	0	0	0	0	0	0
EB01	LINCOLN HEIGHTS, RICHARDSON DWELLINGS	EBO	Available Balances	850,346	850,346	0	0	0	0	0	0
5C											
		EBO Total		850,346	850,346	0	0	0	0	0	0
EB01				850,346	850,346	0	0	0	0	0	0
5C											
Total				850,346	850,346	0	0	0	0	0	0
EB40	DC WATER NEW FACILITY	EBO	Available Balances	1,863,731	6,216	0	0	0	0	0	0
9C											
		EBO Total		1,863,731	6,216	0	0	0	0	0	0
EB40				1,863,731	6,216	0	0	0	0	0	0
9C											
Total				1,863,731	6,216	0	0	0	0	0	0
EB42	HILL EAST	EBO	Approved FY20 CIP for FY21-25	0	0	10,000,000	4,000,000	0	0	0	14,000,000
2C			Mayor's Proposed FY21 CIP Change	0	0	(650,000)	650,000	0	0	0	0
			Available Balances	2,271,973	500,000	0	0	0	0	0	0
		EBO Total		2,271,973	500,000	9,350,000	4,650,000	0	0	0	14,000,000
EB42				2,271,973	500,000	9,350,000	4,650,000	0	0	0	14,000,000
2C											
Total				2,271,973	500,000	9,350,000	4,650,000	0	0	0	14,000,000
EB42	POPLAR POINT	EBO	Available Balances	522,318	87,874	0	0	0	0	0	0
3C											
		EBO Total		522,318	87,874	0	0	0	0	0	0
EB42				522,318	87,874	0	0	0	0	0	0
3C											
Total				522,318	87,874	0	0	0	0	0	0
EB43	FRANK D. REEVES CENTER	EBO	Mayor's Proposed FY21 CIP Change	0	0	0	250,000	4,000,000	0	0	4,250,000
2C								4,000,000	0	0	4,250,000
		EBO Total		0	0	0	250,000	4,000,000	0	0	4,250,000
EB43				0	0	0	250,000	4,000,000	0	0	4,250,000
2C											
Total				0	0	0	250,000	4,000,000	0	0	4,250,000
EB45	LEDROIT PARK	EBO	Available Balances	5,564	0	0	0	0	0	0	0
0C											
		EBO Total		5,564	0	0	0	0	0	0	0

EB45											
OC											
Total											
				5,564	0	0	0	0	0	0	0
ENS1	SMALL BUSINESS		Mayor's Proposed	0	0	720,000	0	0	0	0	720,000
6C	IT SYSTEM	ENO	FY21 CIP Change								
			Available Balances	56,116	36,329	0	0	0	0	0	0
			Committee's FY21	0	0	(720,000)	0	0	0	0	(720,000)
			Recommendation								
			ENO Total	56,116	36,329	0	0	0	0	0	0
ENS1											
6C											
Total											
				56,116	36,329	0	0	0	0	0	0
EQ9A	EQUIPMENT		Available Balances	819,292	819,292	0	0	0	0	0	0
TC	ACQUISITION	ATO									
			ATO Total	819,292	819,292	0	0	0	0	0	0
EQ9A											
TC											
Total											
				819,292	819,292	0	0	0	0	0	0
SHAW-HOWARD											
UNIVERSITY											
HUH2	HOSPITAL		Mayor's Proposed	0	0	0	0	10,000,00	15,000,00	0	25,000,00
1C	INFRASTR	EBO	FY21 CIP Change								
			EBO Total	0	0	0	0	10,000,00	15,000,00	0	25,000,00
HUH2											
1C											
Total											
				0	0	0	0	10,000,00	15,000,00	0	25,000,00
IFSM	MP-NEW		Approved FY20 CIP	0	0	59,856,38	38,907,309	37,990,709	4,503,969	0	141,258,305
PC	FINANCIAL	ATO	for FY21-25								
	SYSTEM		Mayor's Proposed	0	0	(48,791,000)	(10,000,000)	(10,000,000)	0	0	(68,791,000)
			FY21 CIP Change								
			Available Balances	39,168,555	34,501,128	0	0	0	0	0	0
			Mayor's Proposed	48,791,000	48,791,000	0	0	0	0	0	0
			FY20								
			Supplemental								
			ATO Total	87,959,555	83,292,128	11,065,318	28,907,309	27,990,709	4,503,969	0	72,467,305
IFSM											
PC											
Total											
				87,959,555	83,292,128	11,065,318	28,907,309	27,990,709	4,503,969	0	72,467,305
NEW	IVY CITY		Committee's FY21	0	0	250,000	0	0	0	0	250,000
12C	RECREATIONAL	EBO	Recommendation								
	SPACE		EBO Total	0	0	250,000	0	0	0	0	250,000
NEW											
12C											
Total											
				0	0	250,000	0	0	0	0	250,000
OTR3	HIGHWAY TRUST		Available Balances	441	441	0	0	0	0	0	0
20	FUND	ATO									
			ATO Total	441	441	0	0	0	0	0	0
OTR3											
20											
Total											
				441	441	0	0	0	0	0	0
CRUMMELL											
SCHOOL_CONSTR											
SC216	SCHOOL_CONSTR		Available Balances	1,600,000	1,600,000	0	0	0	0	0	0
C	REDEVELOPM	EBO									
			EBO Total	1,600,000	1,600,000	0	0	0	0	0	0
SC216											
C											
Total											
				1,600,000	1,600,000	0	0	0	0	0	0
Grand											
Total											
				257,317,474	186,192,112	158,866,294	148,467,061	58,054,801	24,714,919	15,000,000	405,103,075

E. TRANSFERS IN FROM OTHER COMMITTEES

Sending Committee	Amount	FTEs	Receiving Agency	Program	Purpose	Recurring or One-Time
Committee on Health	\$955,972	6	Alcoholic Beverage Regulation Administration	6000 Medical Marijuana	Implementation of a BSA subtitle: Medical Marijuana Program Administration Amendment Act of 2020	Recurring
Committee on the Judiciary and Public Safety	\$130,870	0	Department of Small and Local Business Development	4000 Commercial Revitalization	Create a new Clean Team in Eastern Market	Recurring
Committee on Transportation and the Environment	\$200,000	0	Department of Small and Local Business Development	4000 Commercial Revitalization	Create a new Main Street program in Chevy Chase	Recurring
Committee on Recreation	\$250,000	0	Department of Small and Local Business Development	3000 Business Opp and Access to Capital	Dream Grants for Ward 7 & 8 Microbusiness	One-Time
Committee on Health	\$420,840		Revenue reduction - property taxes	N/A	BSA subtitle: Skyland Tax Exemption Amendment Act of 2020	
Total	\$1,957,681	6				

F. TRANSFERS OUT TO OTHER COMMITTEES

Receiving Committee	Amount	Receiving Agency	Purpose	Recurring or One-Time
Committee of the Whole	250,000.00	Pay-Go Capital	Paygo capital enhancement for interim recreation space in Ivy City	One Time
Committee of the Whole	321,450.00	Council of the District of Columbia	BSA subtitle: Racial Equity Achieves Results Establishment Act	Recurring
Committee of the Whole	8,025.00	Council of the District of Columbia	BSA subtitle: Racial Equity Achieves Results Establishment Act	One Time
Committee on Education	1,000,000.00	D.C. Public Library	Go-Go Archives digitalization, collection, and acquisitions	One Time
Committee on Government Operations	105,400.00	Office of Human Rights	BSA subtitle: Racial Equity Achieves Results Establishment Act	Recurring
Committee on Government Operations	2,675.00	Office of Human Rights	BSA subtitle: Racial Equity Achieves Results Establishment Act	One Time
Committee on Government Operations	817,150.00	Office of the City Administrator	BSA subtitle: Racial Equity Achieves Results Establishment Act	Recurring
Committee on Government Operations	61,050.00	Office of the City Administrator	BSA subtitle: Racial Equity Achieves Results Establishment Act	One Time
Committee on Government Operations	1,000,000.00	Office of Cable Television, Film, Music and Entertainment	Go-Go Creative Economy development and support at OCTFME	One Time
Committee on Health	75,000.00	Department of Health	School-based mental health services	One Time
Total	\$3,640,750.00			

F. REVENUE ADJUSTMENT

Revenue Type	FY 21 Amount	Recurring or One-Time	Purpose
Property taxes	\$67,086	Recurring	Mypheduh Films DBA Sankofa Video and Books Real Property Tax Exemption Act of 2019 (Bill 23-75)
Property taxes	\$420,870		BSA subtitle: Skyland Tax Exemption Amendment Act of 2020
Total	\$487,956		

G. FUNDING OF LEGISLATION

Revenue Type	FY 21 Amount	Recurring or One-Time	Purpose
Property taxes	\$67,086	Recurring	Mypheduh Films DBA Sankofa Video and Books Real Property Tax Exemption Act of 2019 (Bill 23-75)
Property taxes	\$420,870		BSA subtitle: Skyland Tax Exemption Amendment Act of 2020
Total	\$487,956		

H. SPECIAL PURPOSE REEVNUE SWEEPS

Owner Agency	Fund Name	Fund Balance Reduction	Recurring or One-Time
Alcoholic Beverage Regulation Administration	110 Dedicated Taxes	-\$214,968	One-Time
Medical Liability Captive Insurance Agency	0640 Subrogation Fund	-\$4,047,626	One-Time
Department of Insurance, Securities & Banking	2910 Foreclosure Mediation Fund	-\$29,650	One-Time
Deputy Mayor for Planning and Economic Development	419 H St Retail Priority Area Grant Fund	-\$324,764	One-Time
Deputy Mayor for Planning and Economic Development	0616 Walter Reed Redevelopment Fund	-\$485,887	One-Time
Department of Small and Local Business Development	6160 Streetscape Loan Relief Fund	-\$44,080	One-Time
Total		-\$5,146,976	

I. SUMMARY OF COMMITTEE BUDGET RECOMMENDATIONS

II. AGENCY FISCAL YEAR 2021 BUDGET RECOMMENDATIONS

A. INTRODUCTION

The Committee on Business and Economic Development is responsible for matters concerning small and local business development policy; matters related to economic, industrial, and commercial development; the disposition of property for economic development purposes; the regulation of alcoholic beverage establishments; public utilities; the operation and oversight of business improvement districts ("BIDs"); the regulation of banks and banking activities, securities, and insurance, including private health insurance, but not including the Health Benefit Exchange; and regulation of for-hire vehicles.¹ Additionally the Committee has oversight of financial and tax matters as well as matters related to the marketing of the District to increase tourism to the City.

The District agencies, boards, and commissions that come under the Committee's purview are as follows:

• Alcoholic Beverage Regulation Administration	• District of Columbia Combat Sports Commission
• Business Improvement Districts	• Financial Literacy Council
• Board of Accountancy	• For-Hire Vehicle Advisory Council
• Board of Architecture and Interior Designers	• Innovation and Technology Inclusion Council
• Board of Barber and Cosmetology	• Kennedy Street NW Economic Development and Small Business Revitalization Advisory Committee
• Board of Consumer Claims Arbitration for the District of Columbia	• Multistate Tax Commission
• Board of Funeral Directors	• OCFO
• Board of Professional Engineering	• Office of People's Counsel
• Captive Insurance Agency	• Public Access Corporation
• Department of For-Hire Vehicles	• Public Service Commission
• Department of Insurance, Securities and Banking	• St. Elizabeth's East Redevelopment Initiative Advisory Board
• Department of Small and Local Business Development	• Walter Reed Army Medical Center Site Reuse Advisory Committee
• Deputy Mayor for Planning and Economic Development	• District of Columbia Combat Sports Commission

¹ See Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 23, Rule 237(a).

<ul style="list-style-type: none"> • Destination DC 	<ul style="list-style-type: none"> • Financial Literacy Council
<ul style="list-style-type: none"> • District of Columbia Lottery and Charitable Games 	<ul style="list-style-type: none"> • For-Hire Vehicle Advisory Council

The Committee is chaired by Councilmember Kenyan R. McDuffie, Ward 5. The other members of the Committee are Councilmembers Mary Cheh, Ward 3; Charles Allen, Ward 6, and Vincent Gray, Ward 7.

The Committee held performance and budget oversight hearings on the following dates:

<i>Performance Oversight Hearings</i>	
January 15, 2020	<ul style="list-style-type: none"> • Department of Small and Local Business Development • Department of Insurance, Securities and Banking • Department of For-Hire Vehicles
January 22, 2020	<ul style="list-style-type: none"> • Alcoholic Beverage Regulation Administration • Office of People’s Counsel • Public Service Commission • Public Access Corporation
February 24, 2020	<ul style="list-style-type: none"> • Deputy Mayor for Planning and Economic Development • Destination DC
March 4, 2020	<ul style="list-style-type: none"> • DC Lottery and Charitable Games • Office of Chief Financial Officer

<i>Budget Oversight Hearings</i>	
May 27, 2020	<ul style="list-style-type: none"> • Department of Small and Local Business Development • Department of Insurance, Securities and Banking • Department of For-Hire Vehicles <p>(Government Witnesses Only)</p>
June 1, 2020	<ul style="list-style-type: none"> • Destination DC • Alcoholic Beverage Regulation Administration • Public Service Commission • Office of the People’s Counsel <p>(Government Witnesses Only)</p>
June 3, 2020	<ul style="list-style-type: none"> • Deputy Mayor for Planning and Economic Development

	<ul style="list-style-type: none"> • Office of the Chief Financial Officer • Office of Lottery and Gaming <p>(Government Witnesses Only)</p>
June 16, 2020	<ul style="list-style-type: none"> • Public Witness Testimony on Agencies within the purview of the Committee on Business and Economic Development

The Committee received important comments from members of the public during these hearings. Copies of witness testimony are included in this report as *Attachments* [Click here to enter text.](#) A video recording of the hearings can be obtained through the Office of Cable Television or at *oct.dc.gov*. The Committee continues to welcome public input on the agencies and activities within its purview.

Introductory Comments on the Committee’s Fiscal Year 2021 Budget for Agencies under Its Purview

This Report of Recommendations of the Committee on Business and Economic Development on the Fiscal Year 2021 Budget for Agencies under its purview was developed over months of public and stakeholder engagement and research. The Committee’s budget reflects investments in District businesses and commercial infrastructure including funds that support Certified Business Enterprise (CBE) capacity building, the financial stability of small businesses, support for minority businesses, and significant capital project financing. However, fundamentally this budget advances a Racial Equity Agenda.

The Committee recognizes that the public health emergency has brought to the forefront of social dialogue inequities that are deeply ingrained in American consciousness. This report builds on the steps the Council has taken to address racial inequities. Several pieces of legislation have been introduced in the Council to combat systemic racism. For example, the introduction of the Sense of the Council on Establishing Race, Equity, and Social Justice Resolution of 2017, which received unanimous support by the Council and the introduction of the Racial Equity Achieves Results Act of 2019 (REACH Act) were examples of a commitment to this issue. Legislation was also introduced that would require African American and cultural history classes across DCPS and DCPCS and another bill would review racist symbols and monuments and replace them with monuments of Washingtonians. To better prepare for the task eliminating racial inequities, the Council also received racial equity training, and the District became members of the Government Alliance on Racial Equity.

As this pandemic has shown, we must continue to focus on minority and women-owned businesses; addressing economic injustice is critical to advancing a racial equity agenda . To this end, this budget funds a new disparity study that will provide the data-driven evidence needed to establish public policy goals that benefit Black and brown people. Moreover, through the current budget process, the Committee recommends several

policies that will focus resources on resident-owned and minority and women owned small businesses to ensure that are positioned to both survive the pandemic as well as thrive in recovery. For example, the Committee is advancing the Racial Equity Achieves Results Act of 2019 to establish the Office of Racial Equity and create a racial equity assessment to score legislation for its impact on racial equity goals. The Committee is also creating an Equity Impact Fund to addresses the barriers to accessing capital for minority businesses and critically the Committee is establishing a new CBE designation, Equity Impact Enterprises to to address structural impediments to opportunities faced by many women and minority owned businesses .

The Committee’s budget invests significantly in communities that have not traditionally received the investments many other areas in the District have enjoyed. It expands proven programs like clean teams, which contribute to the revitalization of many of the District’s economic corridors and provide much needed job opportunities and expands a Great Streets Corridor to include the businesses on Montello Ave. NE. Overall, the Committees budget seeks to provide comprehensive support to advance equitable economic development.

B. OFFICE OF THE CHIEF FINANCIAL OFFICER (A TO)

Office of the Chief Financial Officer – Operating Budget						
LOCAL FUND	\$129,063,430	\$138,588,649	\$137,617,895	-\$35,114	\$137,582,781	-0.7%
FEDERAL GRANT FUND	\$648,747	\$450,000	\$450,000		\$450,000	0.0%
SPECIAL PURPOSE REVENUE FUNDS (OTYPE)	\$18,327,198	\$43,622,353	\$45,339,334		\$45,339,334	3.9%
OPERATING INTRA-DISTRICT FUNDS	\$10,381,050	\$10,859,491	\$9,198,640		\$9,198,640	-15.3%
TOTAL GROSS FUNDS	\$158,420,425	\$193,520,493	\$192,605,869	-\$35,114	\$192,570,755	-0.5%

Office of the Chief Financial Officer - FTEs							
LOCAL FUND		818.0	870.0	868.0		868.00	-0.2%
FEDERAL GRANT FUND		0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (OTYPE)		54.8	61.0	70.0		70.00	14.8%
OPERATING INTRA-DISTRICT FUNDS		47.0	56.0	50.0		49.00	-12.5%
TOTAL FTE		919.73	987.00	988.00	0.00	987.00	0.0%

1. AGENCY MISSION AND OVERVIEW

The stated mission of the Office of the Chief Financial Officer (OCFO or Agency) is to provide financial management services to the government and the people of the District of Columbia and to sustain long-term fiscal and economic viability. The OCFO works to enhance fiscal and financial stability, accountability, and integrity for the District government. The OCFO operates through seven programs: (1) Financial Operations and

Systems; (2) Budget Development and Execution; (3) Research and Analysis; (4) Tax Administration; (5) Information Technology; (6) Finance and Treasury; and (7) Integrity and Oversight.

The *Financial Operations and Systems* division carries out the District’s accounting operations, including critical functions such as District-wide General Ledger accounting, financial reporting, and pay and retirement services. This program also works closely with the Office of the Inspector General to produce the CAFR, which shows the District’s financial position at the end of each fiscal year. The *Budget Development and Execution* division—commonly referred to as the Office of Budget and Planning (OBP)—prepares, monitors, analyzes, and executes the District government’s budget, including operating, capital, and enterprise funds, in a manner that facilitates fiscal integrity and maximizes services to taxpayers.² The *Research and Analysis* division—also known as the Office of Revenue and Analysis (ORA)—provides revenue estimates, revenue policy analysis, and analysis supporting economic development.

The *Tax Administration* division—often referred to as the Office of Tax and Revenue (OTR)—provides fair, efficient, and effective administration of the District’s business, income, excise, and real property tax laws. The *Information Technology* division provides the development and maintenance of state-of-the-art financial information systems to support the District’s payroll, pension, accounting, tax, budget, treasury, and web-based financial reporting systems. The *Finance and Treasury* division provides management of the financial assets and liabilities of the District government, including investing, collecting, safekeeping, disbursing, recording, and acquiring District financial resources. Finally, the *Integrity and Oversight* division maintains the accountability, integrity, and efficiency of the Districts’ financial management and tax administration systems.

2. MAYOR’S PROPOSED FISCAL YEAR 2021 OPERATING BUDGET

Proposed Operating Budget Summary

The Mayor’s proposed Fiscal Year 2021 operating budget for OCFO is \$198,932,070, which represents less than 1 percent decrease from its Fiscal Year 2020 approved gross budget of \$199,839,465. The funding supports 1,280 Full-Time Equivalents (FTE), which represents a 0 percent change from the Fiscal Year 2020 approved budget. The budget is comprised of \$143,944,096 in Local funds, \$450,000 in Federal Grant funds, \$45,339,334 in Special Purpose Revenue funds, and \$9,198,640 in Intra-District funds.

Dedicated Taxes: The Mayor’s proposed Fiscal Year 2021 budget for OCFO includes no dedicated tax funds.

² Although a component unit of the OCFO, the Committee does not perform oversight for OBP. This program falls under the oversight jurisdiction of the Committee of the Whole. *See supra*, note 4. The Committee, therefore, does not make any recommendations with respect to the funds or Full-Time Equivalents affecting OBP.

Local Funds: The Mayor's proposed Fiscal Year 2021 budget for OCFO includes \$143,944,096 in Local funds, comprising of an increase of \$4,440,784 to support agency-wide salary, step, and fringe benefit adjustments across several agency programs, as well as to support additional 5 FTEs. Furthermore, the Local funds budget proposal includes a net increase of \$1,194,726, primarily in Contractual Services, to properly align spending with the Agency's operations. Lastly, the Local funds budget proposal reflects a reduction of \$6,169,384 and 8.0 FTEs that accounts for savings in personal and nonpersonal services across multiple programs.

Special Purpose Revenue Funds: The Mayor's proposed Fiscal Year 2021 budget includes an increase of \$1,096,735 in Special Purpose Revenue funds, which will support 9 additional FTEs as well as projected salary, step, and fringe benefit adjustments across multiple programs. The proposed budget also includes an increase of \$620,247 to align the budget with anticipated revenues, which will primarily be used to support contractual costs in the Finance and Treasury program.

Intra-District Funds: The Mayor's proposed Fiscal Year 2021 budget reflects a decrease of \$1,660,851 in Intra-District funds and 6 FTEs, primarily in the Office of Finance and Treasury due to the modification of a Memorandum of Understanding (MOU) with the Other Post-Employment Benefits Administration. The total budget for Intra-District funds for Fiscal Year 2021 is \$9,198,640, which represents a \$1,660,360 reduction from the Fiscal Year 2020 budget of \$10,859,000.

Private Donations: The Mayor's proposed Fiscal Year 2021 budget for OCFO includes no private donations.

Recurring Budget: The Mayor's proposed Fiscal Year 2021 Recurring budget for OCFO includes a reduction of \$429,651 to account for the removal of one-time funding appropriated in Fiscal Year 2020. This enhancement was comprised of \$348,000 to support the tax refund associated with the Charter School Property Tax Clarification Amendment Act of 2019 and \$81,651 to support the tax refund associated with tax abatement for National Association of Pen Women.

3. COMMITTEE ANALYSIS AND COMMENTS

On March 11, 2020, Mayor Muriel Bowser declared both a state of emergency and a public health emergency in the District of Columbia in response to the outbreak of a global pandemic known as the coronavirus or COVID-19. The objective of the emergency declaration was to limit business activities and public movement in order to minimize the spread of the virus until a vaccine is created. Unfortunately, like many other states throughout the United States, the pandemic has created severe economic distress in the District. Like other states and local governments, the District government has been forced to close schools, stores, hotels, restaurants and other workplaces, and has placed severe restrictions on travel and social gatherings since mid-March. According to the Mayor's briefing on May 18, 2020, following the release of the Fiscal Year 2021 budget, the

District's gross domestic product is not expected to regain its prior peak until the end of 2021.

The OCFO has played a critical role in providing the Mayor and Council financial advice on how the District may utilize its reserves during this period of recession. So far, the District has used up the \$322 million³ surplus it generated during the Fiscal Year 2019 budget cycle and has tapped into its Fiscal Stabilization Reserve Fund for the first time, completely sweeping the \$213,000,000 it has in reserves in order to meet the demands of the recession.

In addition to advising the District government during this COVID-19 period, the OCFO has adopted independent policies as an agency to provide District residents and businesses further financial relief. For instance, the OCFO has: (1) extended the deadline for taxpayers to pay their individual and fiduciary income tax returns (Forms D-40, D-41, and D-40B), partnership tax returns (Form D-65), and franchise tax returns (Form D-20 and D-30) from April 15, 2020 to July 15, 2020; (2) extended the deadline for businesses (except hotels and motels) to pay their Sales and Use taxes for periods ending in February 29, 2020 and March 31, 2020 to July 20, 2020; and (3) extended the deadline for hotels and motels (excluding other businesses) to pay their Real Property taxes for the first half of tax year 2020 on June 30, 2020.

The Committee is impressed with OCFO's quick response in identifying temporary tax breaks for District residents and businesses during these difficult times. However, the Committee would encourage the Agency to identify additional creative avenues to provide for more permanent tax incentives for residents and businesses, especially small businesses. For instance, the Agency may provide additional tax relief for small businesses through the Small Retailer Property Tax Relief Credit program. The Agency may also increase the dollar amount on the refundable franchise tax credit that qualified businesses receive pursuant to D.C. Official Code §§ 47-1807.14 and 47-1808.14 from \$5,000 to \$10,000.

Despite the recession, the OCFO still maintains its responsibilities as the chief financial regulatory body of the District. As a result, for Fiscal Years 2021 to 2024, the OCFO has mapped out the three core objectives it aims to achieve. First, the OCFO aims for the District to maintain a balanced budget in spite of the downturn the District's economy is experiencing due to the global pandemic. Pursuant to D.C. Official Code § 1-206.03, the Mayor is required to submit a balanced budget every fiscal year to the Council for review. The OCFO aims to continue working with the Mayor, Council, and executive agencies to ensure that the District manages its revenues wisely and that funds are first certified before a program or project is implemented each fiscal year.

³ In Fiscal Year 2019, the District reached its goal of 60 days of cash on hand in its four reserve funds in addition to generating a surplus of \$322 million. The District's reserve funds are: Cash Flow Reserve Fund, Contingency Cash Reserve Fund, Fiscal Stability Reserve Fund, and Emergency Reserve Fund. Reaching this goal means the District has resources and flexibility to address emergency needs such as those created by the pandemic.

Next, the OCFO aims for the District to maintain its clean audits. For twenty-three consecutive years, the District has received a clean audit after a review of its financial reports by an independent team of public accountants. For Fiscal Year 2019, for instance, the Office of Inspector General (OIG) and the OCFO published the District's Comprehensive Annual Financial Report (CAFR) after SB & Company, LLC, an independent team of public accounts, reviewed the District's financial records. The CAFR asserted that: (1) the District maintained a clean audit opinion for its twenty-third consecutive year; (2) there was no material weaknesses or significant deficiencies for the fifth consecutive year; (3) the District had maintained a triple A rating in its General Obligation (GO) Bond and Income Tax Secured (ITS) Revenue Bond rating; and (4) for the first time in its history, the District achieved 60 days of operating expenses in reserve which is considered the best practice level amongst states. The CAFR affirmed that the District was in its strongest financial position in since its history and this gave the District the confidence to face its current tumultuous climate due to the global pandemic.

Lastly, the OCFO aims for the District to continue to have access to quality credit markets. Through the District's triple A ratings on its GO Bonds and ITS Bonds by global credit rating companies such as Fitch Ratings and S&P Global Rating, the District has been able to gain access to quality credit markets and issue bonds at very low interest rates. In Fiscal Year 2019, the District issued \$937.8 million in GO Bonds, the proceeds of which were used to finance economic development initiatives, infrastructure improvements, other capital projects, and reduce debt services. Despite having to tap into District reserves to meet the needs of the COVID-19 pandemic, the OCFO will be working diligently to advise the Mayor and Council on best financial practices to ensure that the economic downturn does not detrimentally affect the District's triple A credit rating.

While the Committee acknowledges and admires the work the OCFO has accomplished in these times, it recognizes that there is still room for improvement. The Committee encourages the Agency to look more closely at the disparate impact some the District's financial policies may have on economically vulnerable populations.

4. FISCAL YEAR 2021-2026 CAPITAL BUDGET

The Mayor's proposed Fiscal Year 2021 capital budget for the Office of the Chief Financial Officer is \$13,383,000 and \$77,072,000 over the course of the 6-year capital plan. The bulk of this spending is for the New Financial System project, budgeted at \$72,467,000.

Committee Analysis and Comments

1. Capital Asset Replacement Scheduling System - CARSS (CIM01)

The project will provide better information on current capital projects as well as future capital and infrastructure needs. The project will identify budget needs to maintain current infrastructure; the capacity of different funding options; and the impact of policies on the District's debt cap and pay-as-you-go levels. The project will help identify the need for alternative financial options such as public/private partnerships and infrastructure trusts, in support of managing the District's asset needs. The project will also model all District assets, by type, and by agency, against their current condition and future capital repair needs to ensure maximization of their useful life and ultimately the replacement. It will also provide a mechanism for assessing the value and the risks to the District of both current assets and proposed investments in new assets.

The Mayor's proposed Fiscal Year 2021 capital budget for CARSS is \$795,000 and \$1,150,000 over the course of the 6-year capital plan.

2. IT System Upgrades (CSP10)

The Mayor's proposed Fiscal Year 2021 capital budget for IT System Upgrades is \$1,523,000 and \$3,455,000 over the course of the 6-year capital plan. This project supports the OCFO's central Information Technology (IT) system infrastructure; the composite hardware, software, network resources and services required for the existence, operation and management of an enterprise IT environment. This is an internal project that covers capital investments associated with systems enhancements and includes life-cycle replacement of OCFO network appliances and servers.

3. New Financial System/previously SOAR Modernization (IFSMPC)

The Mayor's proposed Fiscal Year 2021 capital budget for the New Financial System/previously SOAR Modernization is \$11,065,000 and \$72,467,000 over the course of the 6-year capital plan. The New Financial System project (formerly known as SOAR modernization project) will implement major enhancements and improvements to the District's General Ledger System by completely replacing the current R-STARS (SOAR) accounting system with a modern, web-based system utilizing industry best practices. The current application is over 17-years old and must be replaced. In addition to a new financial accounting component, this system will also include the following: new planning and budget system, new treasury management system, new grants system, organizational change management and Independent Verification & Validation (IV&V).

5. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Mayor's Fiscal Year 2021 operating budget for the Office in the amount of \$198,932,070.

b. Fiscal Year 2021 Capital Budget Recommendations

The Committee recommends adoption of the Mayor's Fiscal Year 2021 capital budget for the Office of \$13,383,380 in Fiscal Year 2021 and \$77,072,000 over the course of the 6-year capital plan. The bulk of which is for the New Financial System project (\$72,467,000 million). The funds will be used to support: (1) the move of data to a cloud environment; (2) simplified and standardized data structure; (3) Innovative communication and training; and (4) automated data integration.

c. Policy Recommendations

1. The Committee recommends that the OCFO work closely with advocates to create a program similar to the federal Office of Taxpayer Advocate, which ensures that their Taxpayer Advocate Office (TAO) is independent from OTR. The Committee supports the OCFO's plan to create an office with five advocates who can make recommendations to correct systemic issues and advocate on behalf of taxpayers.

2. The Committee recommends the OCFO begin posting publicly copies of administrative tax abatement decisions for real property tax abatements. The Committee believes this will enhance the public's knowledge of, and confidence in, these rulings. This will further enhance efficiency for the OCFO, as they would no longer need to receive, evaluate, and respond to requests for access to individual real property tax abatement decisions made through public records requests.

3. The Committee recommends the agency seek opportunities to use the excess revenue from the Ballpark Revenue tax to support minority and women owned businesses.

4. The Committee encourages the agency to increase the number of District residents hired by the OCFO.

C. OFFICE OF LOTTERY AND GAMING

Office of Lottery and Charitable Games						
LOCAL FUND	\$0	\$0			\$0	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$6,612	\$0			\$0	
ENTERPRISE AND OTHER FUNDS	\$213,359,831	\$211,973,874	\$507,308,471		\$507,308,471	139.3%
TOTAL GROSS FUNDS	\$213,366,444	\$211,973,874	\$507,308,471	\$0	\$507,308,471	139.3%

Office of Lottery and Charitable Games						
LOCAL FUND		0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		0.0	0.0		0.00	
ENTERPRISE AND OTHER FUNDS		67.0	76.5	88.5	87.00	13.7%
TOTAL FTE		66.99	76.50	88.50	0.00	87.00

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Office of Lottery and Gaming (“OLG” or “Office”) is to provide revenue generating entertainment through the sale of innovative lottery products and promotions that directly benefits the residents and the economic vitality of the District of Columbia. OLG has contributed over \$2 billion to the District’s General Fund since the Office’s inception in 1982 and the OLG annual transfer to the General Fund remains a vital component in aiding the District’s economy. The General Fund supports services in the District, including education, recreation and parks, public safety, housing, and senior and child services. OLG directly benefits its players by paying out more than 50% of annual sales in prize money and directly benefits local businesses by offering contracting opportunities and providing commissions to retailers licensed to sell DC Lottery games.⁴

The OLG oversees several types of games through its Gaming Operations program. The types of games that the Office oversees are Instant Games, Online Games, Sports Wagering. Instant Games include instant lottery games, like scratch-off style lottery tickets, which allow the gaming public to experience the entertainment value and potential reward of playing and winning lottery games. Online Games are lottery tickets sold to the gaming public by retail lottery agents and video gaming machines and are comprised of the following: The Lucky One, DC2, DC3, DC4, DC5, Powerball, Mega Millions, Keno, Race 2 Riches, Lucky for Life, Tap-N-Play, and Fast Play. Sports Wagering provides the opportunity for individuals to place wagers on select sporting events while the District experiences a steady source of revenue through the transfer of net proceeds from sales.⁵

⁴ FY 2021 Proposed Budget and Financial Plan, Vol. 4, Office of Lottery and Gaming, H-39 (2020).

⁵ *Id.* at H-42.

b. Mayor's Proposed Fiscal Year 2021 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed Fiscal Year 2021 gross budget for OLG is \$507,308,471, which represents a \$295,334,597, or 139.3% increase over the Office's Fiscal Year 2020 approved gross budget of \$211,973,847. The budget is comprised entirely of Enterprise and Other funds. The Mayor's Fiscal Year 2021 proposed budget for OLG supports 88.5 FTEs, which represents 12 more FTEs, or a 15.7% increase in FTEs, from the 76.5 FTEs included in the Office's approved Fiscal Year 2020 budget.⁶

Special Purpose Revenue Funds: There are no Special Purpose Revenue Funds identified in the Mayor's Fiscal Year 2021 proposed budget for OLG.⁷

Enterprise and Other Funds: The Mayor's Fiscal 2021 proposed Enterprise and Other Funds budget for OLG is \$507,308,471 which represents a \$295,334,597, or 139.4% increase over the Office's Fiscal Year 2020 approved gross budget of \$211,973,847.⁸

Committee Analysis and Comments

Sports Wagering: The increase to OLG's budget proposed by the Mayor's Fiscal Year 2021 budget is largely attributable to Sports Wagering Regulations Activity.⁹ The Office's Sports Wagering Regulations division provides licensing to and ensures regulatory compliance by existing or prospective lottery operated and non-lottery operated sports wagering licensees.¹⁰

Sports wagering in the District was authorized in 2019 pursuant to the Sports Wagering Lottery Amendment Act of 2018.¹¹ Initially, the District expected to implement sports wagering ahead of other jurisdictions in the region and thereby reap benefits from that early adoption. The District's lead in this field has since been substantially decreased due to delays. In response to the Committee's follow up questions after OLG's budget oversight hearing, the Office stated that the Virginia state legislature has passed a sports betting bill and that Lottery officials in that state estimate the earliest launch date for sports wagering activity to be mid-to-late December 2020. The Office also stated that Maryland will vote via referendum on the issue in November 2020 and estimated that, if approved, Maryland could begin sports betting in early Fiscal Year 2022. OLG also stated that the District's sports wagering revenue estimates, calculated by the Office of Revenue Analysis (ORA), currently reflect the assumption of an expected drop off of players from Virginia

⁶ *Id.* at H-43.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at H-44.

¹⁰ *Id.* at H-43.

¹¹ Sports Wagering Lottery Amendment Act of 2019, May 3, 2019 (D.C. Act 22-954; 66 DCR 1402)

in FY 2021 and Maryland in FY 2023 (reflecting the previously anticipated launch dates for sports betting in each jurisdiction).

OLG issues seven categories of licenses through its Sports Wagering Regulations division. The tables below show the types of sports wagering licenses offered by OLG and the number of applicants for each license.

TYPE OF LICENSES AND BRIEF DESCRIPTIONS, INCLUDING COSTS:

License Category	Description	Initial License Fee	License Term
Operator, Class A	Sports wagering facilities located at Capital One Arena, Audi Field, Nationals Park, St. Elizabeths East Entertainment and Sports Arena.	\$500,000 (License fee established by D.C. Official Code § 3-621.16(b)(1))	5 Years (License term established by D.C. Official Code § 3-621.16(b)(1))
Operator, Class A Joint Venture Certified by DSLBD	Sports wagering facilities located at Capital One Arena, Audi Field, Nationals Park, St. Elizabeths East Entertainment and Sports Arena and is a certified joint venture pursuant to the CBE act, where the joint venture has a CBE majority interest, and is also certified as either a Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE), or Resident-owned Business (ROB).	\$125,000 (License fee established by D.C. Official Code § 3-621.16(b)(1))	5 Years (License term established by D.C. Official Code § 3-621.16(b)(1))
Operator, Class B	Individuals, group of individuals, or entities operating private sports wagering facilities. Sports wagering facility cannot be located within	\$100,000 (License fee established by D.C. Official Code § 3-621.16(b)(2))	5 Years (License term established by D.C. Official Code § 3-621.16(b)(2))

	2 block radius of any Class A facility.		
Operator, Class B Joint Venture Certified by DSLBD	Individuals, group of individuals, or entities operating private sports wagering facilities and is a certified joint venture pursuant to the CBE act, where the joint venture has a CBE majority interest, and is also certified as either a Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE), or Resident-owned Business (ROB). Sports wagering facility cannot be located within 2 blocks of any Class A facility.	\$25,000 (License fee established by D.C. Official Code § 3-621.16(b)(2))	5 Years (License term established by D.C. Official Code § 3-621.16(b)(2))
Management Services Provider	Individual, group of individuals or entity that contracts with an Operator to manage its sport wagering operations.	\$10,000 (License fee established by D.C. Official Code § 36-621.08(c)(2))	1 Year (License term by D.C. Official Code § 36-621.08(c)(3))
Sports Wagering Supplier	Individual, group of individuals, or entity that sells or leases sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering.	\$10,000 (License fee established by D.C. Official Code § 36-621.09(c))	1 Year (License term established by D.C. Official Code § 36-621.09(d))
Occupational	Any individual employed by a Sports Wagering Operator or Management Services Provider whose work duties are directly related to or involve sports wagering operated under the jurisdiction of the Office.	\$100 (License fee established by D.C. Official Code § 36-621.10(b)(1))	1 Year (License term established by D.C. Official Code § 36-621.10(b)(2))

THE NUMBER OF APPLICANTS THAT HAVE APPLIED FOR EACH TYPE OF LICENSE:

License	License Type	Applications Submitted	Applicants/Comments
Provisional	Operator, Class A	1	American Wagering, Inc. d.b.a William Hill, location Capital One Arena
Provisional	Operator, Class A Joint Venture	0	
Provisional	Operator, Class B	0	
Provisional	Operator, Class B Joint Venture	0	
Provisional	MSP	0	There is a pending application from William Hill at Audi Field.
Provisional	Supplier	5	4 active applications; 1 inactive (has not responded to OLG requests for information).
Standard	Operator, Class A	0	2 applications started, but not completed.
Standard	Operator, Class A Joint Venture	0	1 application pending (DC United, see MSP below).
Standard	Operator, Class B	1	2 other applications started, but not completed.
Standard	Operator, Class B Joint Venture	0	2 applications started, but not completed.
Standard	MSP	0	2 applications started, but not completed. One of the applications will be converted to Standard Class A Joint Venture application by DC United.
Standard	Supplier	1	3 other applications submitted as Provisional applications.
Standard	Occupational	3	1 other application started, but not completed.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Fiscal Year 2021 operating budget for the Office of Lottery and Gaming, as proposed by the Mayor.

D. PUBLIC SERVICE COMMISSION (DH0)

Public Service Commission						
FEDERAL GRANT FUND	\$485,327	\$581,000	\$581,000		\$581,000	0.0%
PRIVATE DONATIONS	\$13,358	\$12,000	\$14,000		\$14,000	16.7%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$14,266,249	\$15,692,793	\$16,950,601		\$16,950,601	8.0%

Public Service Commission							
FEDERAL GRANT FUND		3.3	3.5	3.3		3.00	-14.0%
PRIVATE DONATIONS		0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		70.3	82.1	86.4		77.00	-6.2%
TOTAL FTE		73.64	85.61	89.60	0.00	80.00	-6.6%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Public Service Commission (PSC) is to serve the public interest by ensuring that financially healthy electric, natural gas, and telecommunications companies provide safe, reliable, and quality services at reasonable rates for District of Columbia residential, business, and government customers.

The Public Service Commission regulates public utilities operating in the District of Columbia by issuing orders in formal proceedings that may include written comments or testimony, hearings, studies, and investigations; ensuring fair and appropriate utility prices; fostering competition by licensing utility service providers and supervising the competitive bidding process; ensuring that utility providers meet various environmental regulations and standards by operating in ways that conserve natural resources and preserve environmental quality; and resolving disputes among consumers and utility service providers.

b. Mayor's Proposed Fiscal Year 2021 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed Fiscal Year 2021 operating fund budget for the Public Service Commission (PSC) is \$17,545,601, which represents a 7.7 percent increase over its FY 2020 approved gross budget of \$16,285,793. This funding supports 89.6 full time equivalents (FTEs), which represents an increase of 4.0 FTEs from the Fiscal Year 2020 approved level.

Special Purpose Revenue Funds: The Mayor's proposed Special Purpose Revenue Funds budget is \$16,951,000 an increase of \$1,258,000 or 8.8% from the Fiscal Year 2020 approved budget of \$15,693,000. The proposed funding by special purpose revenue funds support 86.4 FTEs, an increase of 4.2 FTEs over Fiscal Year 2020 approved level.

Federal Grant Funds: The Mayor's proposed federal grant funds budget is \$581,000, which is no change from the Fiscal Year 2020 approved budget. The proposed funding by federal grant funds support 3.5 FTEs, a decrease of 0.2 FTEs over the Fiscal Year 2020 approved level.

Private Donations: The Mayor's proposed private donation budget is \$12,000, a decrease of \$14,000 or 16.7% from the Fiscal Year 2019 approved budget. There are no full-time equivalents supported by private donations budget.

Committee Analysis and Comments

Special Purpose Revenue Funds remain the funding source for approximately 97% of the Commission's budget. Pursuant to D.C. Code Section 34-912, this revenue comes from assessments on Pepco, Washington Gas, Verizon, and all competitive electric, natural gas, and telecommunications service providers licensed by the Commission to do business in the District. The Mayor's proposed Fiscal Year 2021 budget includes an increase of \$2,000 in Private Donation funds to cover travel and training costs, adjustments of \$299,837 across multiple programs primarily to support professional services and equipment-related costs, and an increase of \$10,789 to provide funding for various Fixed Cost commodities. Special Purpose Revenue Funds come from assessments on Pepco, Washington Gas Light (WGL), Verizon, and all other competitive electric, natural gas and telecommunications service providers licensed by the Commission.

Grid Modernization: On June 08, 2020, PSC issued a decision approving the next set of grid modernization recommendations for the District of Columbia on Formal Case 1130, Power Path DC, formerly known as MEDSIS. This order approves a new Distribution Planning Process that allows improved customer engagement and will help the District meet its clean energy goals of 100% renewables, 50% carbon reduction, and 5.5% solar by 2032, launches the long-awaited Power Path DC Pilot Project Program and approves a new Retail Choice website will provide a central clearinghouse for information about third-party energy suppliers to consumers in the District and establishes a microgrid proceeding to inform our further decision-making about the

development of the energy distribution systems in the District. ¹² The Committee looks to continued progress on the grid modernization and a series of orders implementing the recommendations in the Power Path DC Staff Proposed Order.¹³

In addition to Power Path DC, in April 2020, PSC approved a pilot approved a pilot program to procure a long-term renewable energy power purchase power agreement (PPA) for five percent of the District's Standard Offer Service (SOS) procurement portfolio.¹⁴ According to Chairman Phillips, “this order takes direct action to reduce greenhouse gas emissions by promoting the construction of new renewable energy generation facilities within the PJM Interconnection region.¹⁵” The Committee looks forward to the implementation of these initiatives, which will bring the District closer to its 100% renewable energy goal.

DC PLUG: Pepco and the District have partnered on the DC PLUG initiative, a multi-year program designed to migrate vulnerable overhead distribution lines underground. In June 2019, PSC and Pepco broke ground for the first feeder to be placed underground.¹⁶ Construction of Feeder 308 began in the American University Park and Friendship Heights neighborhoods, and construction of Feeder 14900 serving Hawthorne, Barnaby Woods, and Chevy Chase, has begun. DC PLUG will increase electric reliability by placing the District's most vulnerable overhead lines in Wards 3,4,5,7 and 8 underground. Lastly, in January 2020, PSC adopted Order No. 20285, which approved the Pepco/DDOT application for a Second Biennial Plan that contemplates additional underground feeders. The Committee will continue to follow the progress of the construction for this project.

Project Pipes: WGL’s Project Pipes seeks to replace failing gas lines and faulty mechanical couplings in order to remediate leaks. The Project Pipes plan will encompass approximately \$1 billion of expenditures over 40 years. At the agency’s budget oversight hearing, Chairman Phillips testified that PSC extended the WGL’s Project Pipes 1 Plan by an additional six months to September 30, 2020 and set a six-month procedural schedule to review WGL’s PROJECT pipes 2 Plan. The Committee looks forward to additional updates on the progress of Project Pipes

Capital Grid Project: Pepco’s Capital Grid Project, Formal Case No. 1144, aims to update and enhance energy infrastructure. The project involves rebuilding two substations, repurposing one substation, replacing aging underground cabling, constructing 10 new

¹² Written Testimony of Willie Phillips, Chairman, Public Service Commission, FY20 Performance Oversight Hearing, Committee on Business and Economic Development at https://lirms.dccouncil.us/downloads/LIMS/44418/Hearing_Record/HR23-0152-HearingRecord.pdf

¹³ Power Path DC Staff Proposed Order at <https://www.arcgis.com/apps/Cascade/index.html?appid=70ac6b0806a34eaaa0c294cac14a6e54>

¹⁴ DCPSC Approves Innovative Pilot Program to Procure Renewable Energy through PPA, Press Release, Public Service Commission, April 8, 2020

¹⁵ DCPSC Approves Innovative Pilot Program to Procure Renewable Energy through PPA, Press Release, Public Service Commission, April 8, 2020

¹⁶ Written Testimony of Willie Phillips, Chairman, Public Service Commission, FY20 Performance Oversight Hearing, Committee on Business and Economic Development

miles of transmission cabling and construction of a new load-driven substation in the Mt. Vernon neighborhood. The Capital Grid project is proposed to last ten years and cost District ratepayers \$1 billion. PSC has approved the Capital Grid Project, including a Mt. Vernon substation.¹⁷ The written testimony of Chairman Phillips for the Committee’s budget oversight hearing, stated that the “overall Capital Grid Project will help modernize the District’s electric system and increase network capacity ... which will help the District achieve its goals of 100% renewables, 50% carbon reduction, and 5% solar by 2032.”

Utility Payment Plans: In March 2020, the Mayor declared a public health emergency to control the spread of COVID-19, mandated the closure of schools, stores, hotels, restaurants and other workplaces, and placed restrictions on travel and social gatherings in the District.¹⁸ As establishments sharply reduce operations, unemployment claims surged.¹⁹ To address instances where customers are unable to pay their utility bills due to the public health emergency, the Council passed emergency legislation to prohibit the disconnection of utilities and require utility providers to provide payment plans to customers. In response to this issue, PSC established two new cases to deal directly with impacts of the Public Health Emergency (PHE). The first case, GD2020-01, we authorized Pepco and Washington Gas to create a regulatory asset account to record the incremental costs associated with COVID-19, and the for the second case, FC 1164, PSC will convene a technical conference to examine the impact of COVID-19 on public utilities and District ratepayers. PSC has also created a Coronavirus page on our website which provides useful information to consumers on issues relating to policies and practices of all electric and natural gas suppliers. The Committee applauds the agency’s efforts to support customers and utility providers during the public health emergency.

Community Engagement: To increase transparency, the PSC undertook a complete organizational and management assessment led by a consultant, who provided recommendations. In Spring 2019, PSC adopted some of these recommendations, which included a new Office of External Affairs to enhance the media presence of the PSC. Furthermore, since March 2020, PSC has held Open Meetings weekly, have adopted 44 Orders, have conducted numerous Technical Conferences and Working Groups, and have maintained a high level of productivity.²⁰ The Committee applauds the agency’s efforts to increase transparency and the visibility of its contents to ratepayers.

¹⁷ Written Testimony of Willie Phillips, Chairman, Public Service Commission, FY21 Budget Oversight Hearing, Committee on Business and Economic Development

¹⁸ Mayor’s Order 2019-036

¹⁹ Letter from Jeffery Dewitt, Chief Financial Officer, Office of the Chief Financial Officer to Phil Mendelson, Chairman, Council of the District of Columbia at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/April%202020%20Revenue%20Estimate%20Letter%20042020_rev.pdf

²⁰ Written Testimony of Willie Phillips, Chairman, Public Service Commission, FY21 Budget Oversight Hearing, Committee on Business and Economic Development

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2020 Operating Budget Recommendations

The Committee recommends approval of the FY 2020 operating budget for the Public Service Commission, as proposed by the Mayor.

b. Fiscal Year 2020 Policy Recommendations

The Committee makes no policy recommendations.

E. OFFICE OF PEOPLE’S COUNSEL (DJ0)

Office of the People's Counsel						
LOCAL FUND	\$610,611	\$689,246	\$689,246		\$689,246	0.0%
PRIVATE GRANT FUND	\$10,000	\$0			\$0	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$9,024,883	\$9,314,748	\$9,880,144		\$9,880,144	6.1%
TOTAL GROSS FUNDS	\$9,645,494	\$10,003,994	\$10,569,390	\$0	\$10,569,390	5.7%

Office of the People's Counsel						
LOCAL FUND		5.0	8.0	6.0	6.00	-25.0%
PRIVATE GRANT FUND		0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		44.4	45.4	46.4	42.00	-7.5%
TOTAL FTE		49.40	53.40	52.40	0.00	-10.1%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Office of the People's Counsel ("OPC" or "Office") is to advocate for the provision of safe and reliable quality utility service and equitable treatment at rates that are just, reasonable, and nondiscriminatory; assist individual consumers in disputes with utility providers; provide technical assistance, education and outreach to consumers and ratepayers, community groups, associations and the Consumer Utility Board; and provide legislative analysis and information to the Council of the District of Columbia on matters relating to utilities. The Office’s mission further includes consideration of the District’s economy and promotion of the environmental sustainability of the District.

OPC is a party to all utility-related proceedings before the D.C. Public Service Commission and represents the interests of District ratepayers before local and federal regulatory agencies and courts. The Office assists individual consumers in disputes with utility companies about billing or services and provides consumer education and outreach to community groups and associations on emerging issues impacting the quality, reliability and affordability of their utility services and associated environmental issues. The Office

provides technical assistance to consumers, the Consumer Utility Board (CUB), as well as other District community groups. OPC also provides legislative analysis for, assistance to, and testimony before, the District Council on utility matters.

b. Mayor's Proposed Fiscal Year 2020 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed fiscal year 2021 gross budget is \$10,569,390, which represents a 5.7 percent increase over its FY 2020 approved gross budget of \$10,003,994. This funding supports 51.4 FTEs, which represents a decrease of 1 FTE from the fiscal year 2020 approved budget. The proposed budget is comprised of \$689,246 in Local funds, and \$9,880,144 in Special Purpose Revenue funds. The Special Purpose Funds come from assessments on Pepco, Washington Gas, Verizon, and authorized competitive providers and subsequently are recovered from District ratepayers.

Committee Analysis and Comments

Over the past year, OPC has focused on keeping rates affordable, implementing the DC Water Consumer Protection Amendment Act of 2018, responding to utility issues caused by the COVID-19 Public Health Emergency, and educating consumers and enhancing customer engagement.

Response to COVID-19 Public Health Emergency: In March 2020, the Mayor declared a public health emergency to control the spread of COVID-19, mandated social distancing in the District.²¹ This resulted in the reduced operations of establishments in the District, which subsequently increased unemployment claims.²² To address instances where customers are unable to pay their utility bills due to the public health emergency, the Council passed emergency legislation to prohibit the disconnection of utilities and require utility providers to provide payment plans to customers. In response to the public health emergency, OPC engaged with the Council on protecting utility consumers during the public health emergency. OPC also produced COVID-19 videos in seven languages to inform deaf, non-English and limited English-speaking residents of resources available from the DC government and created an in-house task force to target methods of informing consumers of simple self-help measures. OPC also expanded its media outreach to include a new website section (www.opc-dc.gov) dedicated to providing relevant COVID-19 updates, conducted television, newspaper and skype interviews and utilized our social media outlets to provide updates to utility consumers. The Committee recognizes OPC efforts to support utility customers during the public health emergency.

²¹ Mayor's Order 2019-036

²² Letter from Jeffery Dewitt, Chief Financial Officer, Office of the Chief Financial Officer to Phil Mendelson, Chairman, Council of the District of Columbia at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/April%202020%20Revenue%20Estimate%20Letter%20042020_rev.pdf

Rate Affordability: OPC has taken several steps to ensure utility rates are affordable. For example, in 2019, OPC initiated a study on energy affordability. The purpose of the study is to define affordability as it relates to current and future utility consumers and propose recommendations to make the energy burden more affordable and plan. OPC is also completing a report on the status of water affordability in the District, how each of the components of the regulatory landscape impact water affordability, and what options are available to the District to ensure that all households have access to clean and affordable water. OPC also filed a direct testimony in February 2020 for Formal Case No. 1156 in opposition to Pepco's Application for Authority to Implement a Multiyear Rate Plan. The Committee looks forward OPC's updates on Formal Case No. 1156 and additional actions by OPC on this issue.

DC Water Jurisdiction: In April 2019, OPC launched Water Services Division and worked hire and train staff and build out its workspace so that the Division could begin to address consumer complaints.²³ At the FY20 performance oversight hearing on OPC, People's Counsel Mattavous-Fyre indicated that the since its launch the Water Services Division had responded to over 350 complaints, negotiated six settlements on behalf of DC Water consumers an represented a consumer in a formal hearing that resulted in \$3,000 of savings for the customer. OPC also testified and filed comments in two DC Water proceedings. The first pertained the Clean Rivers Impervious Area Charge (CRIAC) and sewer rates and the second involved DC Water's Customer Assistance Program II (CAP2), a discount program for moderate-income consumers. The Committee looks forward OPC's continued consumer advocacy that will assist District customers with their DC Water-related concerns.

Altgas/WGL Merger: On April 24, 2017, Alta Gas and WGL Holdings, Inc. filed an application seeking PSC approval of AltaGas' acquisition of WGL for \$4.5 billion. PSC determined it was not in the public interest and evidentiary hearings were held in December 2017. OPC engaged in settlement discussions with WGL and other parties, and on May 8, 2018, parties to the case filed a unanimous settlement agreement with PSC containing 85 commitments. PSC approved the merger in Order No. 19392. The order included 85 commitments that WGL had to meet over a number of years. OPC reviewed the responses to the commitments submitted by WGL in 2019, and in instances where OPC believed the company fell short of complying with a merger commitment, OPC brought the deficiency to the Company and the PSC's attention. The Committee recognizes that OPC continues to monitor WGL's compliance with merger commitments.

Environment, Energy and Climate Change: OPC continues to focus on conservation, energy efficiency and distributed energy resources. At the fiscal year 2020 performance oversight hearing on OPC, People's Counsel Mattavous-Frye stated that the agency is establishing a Climate Change Section that will ensure climate action policy considerations are an integral part of OPC's operations. OPC also engages in community outreach and education to community groups informing consumers about the availability of solar programs, specifically the Solar for All program. OPC also distributes its

²³ Written Testimony of Sandra Mattavous-Fyre, People's Counsel, Office of the People's Counsel, FY20 Performance Oversight Hearing, Committee on Business and Economic Development

Consumer's Guide to Going Solar. The guide covers details such as the environmental benefits of solar-generated electricity, owning versus leasing solar panels, tips for finding a contractor and opportunities for participating in a community solar project. The agency is also a member of Distributed Energy Financial Group- Low Income Energy Issues Forum (LIEIF) and Low-Income Community Solar Working Group. OPC is also finalizing a study of the Future of Solar PV in the District of Columbia to provide an empirical analysis and recommendations on the optimal mix of community and private solar deployment for each Ward within the District of Columbia.

Consumer Education and Customer Engagement: In fiscal year 2019, the Consumer Services Division (CSD) received 1,294 consumer complaints. Of these complaints, CSD was able to achieve a 95% resolution rate. CSD also attended 348 education and outreach events. In 2019, OPC hired a consultant to review and assess its standard operating procedures for handling all utility consumer complaint processing and to develop standard operating procedures for working with consumers and to examine the capabilities of the software supporting our consumer information database. Also, in 2019, OPC continued its e-newsletter, "The OPC Connection," which provides insight into OPC's activities including "A Note from Your People's Counsel," legal matters, renewable energy and sustainability issues, and energy efficiency tips. The newsletter is distributed monthly to subscribers and posted on OPC's website and social media platforms. "The OPC Connection" provides insight into OPC's activities including "A Note from Your People's Counsel," legal matters, renewable energy and sustainability issues, energy efficiency tips and more. Hard copies are distributed at all utility consumer outreach events.

3. COMMITTEE RECOMMENDATIONS

b. Fiscal Year 2020 Operating Budget Recommendations

The Committee recommends approval of the FY 2020 operating budget for the Public Service Commission, as proposed by the Mayor.

b. Fiscal Year 2020 Policy Recommendations

The Committee makes no policy recommendations.

F. DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT (EB0)

Deputy Mayor for Planning and Economic Development						
LOCAL FUND	\$34,077,769	\$26,585,468	\$24,302,051	\$1,599,918	\$25,901,969	-2.6%
FEDERAL PAYMENTS	\$0	\$0			\$0	
FEDERAL GRANT FUND	\$0	\$0	\$0		\$0	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$11,005,987	\$16,552,206	\$5,339,394		\$5,339,394	-67.7%
OPERATING INTRA-DISTRICT FUNDS	\$16,088	\$0			\$0	
TOTAL GROSS FUNDS	\$45,099,844	\$43,137,674	\$29,641,444	\$1,599,918	\$31,241,363	-27.6%

Deputy Mayor for Planning and Economic Development							
LOCAL FUND		67.2	72.0	74.0	(1.00)	73.00	1.4%
FEDERAL PAYMENTS		0.0	0.0			0.00	
FEDERAL GRANT FUND		0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		11.0	17.0	17.0		17.00	0.0%
OPERATING INTRA-DISTRICT FUNDS		0.0	0.0			0.00	
TOTAL FTE		78.21	89.00	91.00	(1.00)	90.00	1.1%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The Office of the Deputy Mayor for Planning and Economic Development, commonly referred to as DMPED, assists the Mayor in the coordination, planning, supervision, and execution of programs, policies, proposals, and functions related to economic development in the District of Columbia. DMPED sets development priorities and policies, coordinates how the District markets itself to job creators, and leads District development, attraction, and retention efforts. DMPED also works to achieve its mission by focusing on outreach to the business community and neighborhood stakeholders and by forging partnerships between government, business, institutions, and communities to foster economic growth for residents of the District of Columbia.

DMPED's cluster agencies include: Department of Housing and Community Development (DHCD); the Office of Planning (OP); Office of Cable Television, Film, Music and Entertainment (OCTFME); Commission on the Arts and Humanities (CAH); Department of Small and Local Business Development (DSLBD); Office of Public-Private Partnerships (OP3); Office of Zoning (OZ); Real Property Tax Appeals Commission (RPTAC); DC Housing Authority (DCHA); DC Housing Finance Agency (DCHFA); and Office of Tenant Advocate (OTA).

b. Mayor's Proposed Fiscal Year 2020 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed Fiscal Year 2021 operating budget is \$29,641,444, \$29,641,444, which represents a 31.3 percent decrease from its FY 2020 approved gross budget of \$43,137,674. This budget includes 91.0 FTEs, which is an increase of 2.2% over the 89.0 FTEs in the approved Fiscal Year 2020 budget.

Local Funds: The Mayor's Fiscal Year 2021 proposed local funds budget is \$24,302,051, representing a decrease of \$2,283,000 or 8.6% from the Fiscal Year 2020 approved budget of \$26,585,000. This budget would support 74.0 FTEs, a 2.8% increase over the Fiscal Year 2020 approved level of 72 FTEs.

Special Purpose Revenue Funds: The Mayor's Fiscal Year 2021 proposed special purpose revenue funds budget for DMPED is \$5,339,000, which represents a decrease of \$11,213,000, or 67.7% decrease over its Fiscal Year 2020 approved special purpose revenue budget of \$16,552,000. This budget supports 17 FTEs, which represents no change over the Fiscal Year 2020 approved level.

Federal Resources: There are no federal funds allocated in the fiscal year 2021 proposed budget. This represents no change from the fiscal year 2020 approved level.

Intra-District Funds: The Mayor's Fiscal Year 2021 proposed intra-District funds budget is \$0, which is equal to the Fiscal Year 2020 approved budget level.

c. Mayor's Proposed Fiscal Year 2020-2026 Capital Budget

The Mayor's capital improvement plan includes \$327,404,000 for DMPED over the 6-year plan. The plan authorizes \$144,856,000 for fiscal year 2021, \$117,273,000 for fiscal year 2022, \$30,064,000 for fiscal year 2023, \$20,211,000 for fiscal year 2024, \$15,000,000 for fiscal year 2025, and \$0 for fiscal year 2026.

Committee Analysis and Comments

Affordable Housing: DMPED states that enhancing access to economic opportunity through the creation and preservation of stable, affordable housing is a top priority for the agency.²⁴ Since the Mayor's Order directing District agencies to identify new policies, tools, and initiatives to begin creating 36,000 new housing units, including 12,000 affordable units by 2025, the agency has set housing goals by neighborhood to ensure that these 12,000 affordable units are equitably distributed across the District.

During the agency's performance oversight hearing, Acting Deputy Mayor John Falcicchio, stated that DMPED cluster has been at the forefront of this multi-agency

²⁴ About DMPED at <https://dmped.dc.gov/page/about-dmped>

housing effort and that that there are 147 projects (totaling 4,556 units) under construction and 6,397 units in the pipeline to bring additional affordable housing to District residents.²⁵ For example, in October 2019, the redevelopment of Abrams Hall at Walter Reed delivered seventy-seven affordable housing apartments to previously homeless veterans.²⁶ And, in April 2020, the agency closed on Waterfront Station II, a mixed income and mixed-use project will deliver 450 residential apartments, 136 of which will be affordable housing units and the Karin House at the Parks at Walter Reed, which will develop 40 affordable housing units for seniors.²⁷

District land dispositions—which require at least 30 percent of all units created to go to households earning between 30 and 50 percent of Area Median Income (AMI)—are another opportunity to bring affordable housing to communities. For example, in November 2019, the Mayor welcomed the first residents into the Residences at St. Elizabeths East, an apartment community that at completion will provide 202 affordable homes²⁸, and the Council’s approval of Proposed Resolution 23-0423, “St. Elizabeths East Parcel 15 Disposition Approval Resolution of 2019,” will provide additional affordable housing and a town square destination to the St. Elizabeths East Campus.²⁹

As DMPED works toward the Mayor’s goal of producing 36,000 new homes in the District by 2025, the agency will need to consider new mechanisms to ensure that affordable housing is equitable developed throughout the District.

Job Creation and Business Development: DMPED works with the other agencies and the business community to create jobs for our residents by growing and supporting businesses currently in the District and attracting new businesses.³⁰ To this end, in 2019, DMPED hosted “EE100,” an employer engagement kickoff with DC’s 100 largest employers that was attended by private sector businesses, universities and government agencies and relaunched its #ObviouslyDC campaign, to provide companies of all sizes

²⁵ Written Testimony of Acting Deputy Director John Falcicchio, Fiscal Year 2020 Performance Oversight Hearing, Committee on Business and Economic Development, (date)

²⁶ Id.

²⁷ Written Testimony of Acting Deputy Director John Falcicchio, Fiscal Year 2021 Budget Oversight Hearing, Committee on Business and Economic Development, (date)

²⁸ Mayor Bowser Welcomes First Residents to St. Elizabeths East Campus, Press Release, Executive Office of the Mayor available at <https://thedcline.org/2019/11/22/press-release-mayor-bowser-welcomes-first-residents-to-st-elizabeths-east-campus/>

²⁹ Written Testimony of Acting Deputy Director John Falcicchio, Fiscal Year 2020 Performance Oversight Hearing, Committee on Business and Economic Development, (date)

³⁰ About DMPED at <https://dmped.dc.gov/page/about-dmped>

with valuable information and resources on starting and growing a business in Washington, DC.³¹

DMPED also ensures that First Source requirements are met on all the agency’s projects and works with the various employment agencies and entities to promote its projects as employment opportunities for District residents. Development projects administered by DMPED In Fiscal Year 2019 and 2020, created 2,624 permanent jobs and 5,537 construction jobs.

Like other state and local governments throughout the United States, in March 2020, the Mayor declared a public health emergency to control the spread of COVID-19 in the District. This mandated the closure of schools, stores, hotels, restaurants and other workplaces and placed restrictions on travel and social gatherings.³² To address the effects of the public health emergency on businesses and residences, the Council approved emergency legislation establishing the DC Small Business Recovery Microgrant.³³ The administered of the program by DMPED resulted in the processing of 7,400 microgrant applications and the disbursement of more than \$28 million to over 7,000 District businesses.³⁴

Snapshot of DC Small Business Recovery Microgrants

Description	Total Number of Awards	Total Investment
Child Care Development Centers	86	\$368,786.46
Health & Fitness Businesses	120	\$904,090.82
Nightclubs	25	\$273,982.50
Nonprofits	514	\$2,303,490.51
Owners awarded for multiple businesses*	664	\$5,032,791.57
Property Management / Real Estate Businesses	87	\$217,321.36
Restaurants & Food Service Businesses	1,070	\$10,357,195.45
Salons (Nail & Hair Salons/ Barber Shops)	190	\$1,209,353.21
Self-Employed / Independent Contractors / Gig Worker	3,021	\$3,021,000.00
Events DC / Restaurant Association of Metropolitan Washington (RAMW) Co-Funded Grants**	1,062	\$10,359,714.88
Events DC Funded Hotels	10	
DC Department of Housing & Community Development (DHCD) Funded Grants	73	\$326,717.10

³¹ Written Testimony of Acting Deputy Director John Falcicchio, Fiscal Year 2020 Performance Oversight Hearing, Committee on Business and Economic Development, (date)

³² Letter from Jeffery Dewitt, Chief Financial Officer, Office of the Chief Financial Officer to Phil Mendelson, Chairman, Council of the District of Columbia at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/April%202020%20Revenue%20Estimate%20Letter%20042020_rev.pdf

³³ COVID-19 Response Temporary Amendment Act of 2020

³⁴ FY21 BOH Testimony

New Communities Initiative: The New Communities Initiative (NCI) is a District government program designed to revitalize severely distressed subsidized housing and redevelop communities plagued with concentrated poverty, high crime, and economic segregation.³⁵ The initiative targets four neighborhoods in the District of Columbia, including Barry Farm in Ward 8, Lincoln Heights/Richardson Dwellings in Ward 7, Northwest One in Ward 6 and Park Morton in Ward 1.³⁶ The New Communities Initiative is funded through public bond financing that allows the District to leverage funding for development projects. NCI is managed by DMPED, in partnership with the DC Housing Authority (DCHA). Four guiding principles lay the framework for New Communities:

1. ***One for One Replacement*** to ensure that there is no net loss of affordable housing units in the neighborhood;
2. ***The Opportunity for Residents to Return/Stay in the Community*** to ensure that current residents will have a priority for new replacement units to remain in their neighborhood;
3. ***Mixed-Income Housing*** to end the concentration of low-income housing and poverty; and
4. ***Build First***, which calls for the development of new housing to begin prior to the demolition of existing distressed housing to minimize displacement.

In 2019, the Committee marked up, and Council approved, the surplus and disposition of Northwest One. Located at 33 K Street, N.W. and 1010 North Capitol Street, N.W., the proposed development program includes 772 units of mixed-income housing, which will be predominately affordable (2/3 of the rented units will be for households earning less than 30% and 60% of AMI) plus ground-level neighborhood retail uses. More specifically, 263 of the residential units to be developed in the project will be affordable to households at 30% AMI and 255 residential units will be affordable to households at 60% AMI.

To further the Mayor’s commitment of increasing housing opportunities for the District’s most vulnerable population and advance the goal of creating 36,000 new housing units by 2025, the District is establishing the Public Housing and Structural Transformation (“PHAST”) fund to serve as the sole source of District financing for the development and rehabilitation of the District of Columbia Housing Authority’s (“DCHA”) real estate. The Mayor’s proposed capital budget includes \$76 million over the next two fiscal years for the new PHAST Fund: \$40 million to bring DCHA properties into a state of good repair and \$36 million for New Communities Initiative redevelopments.

Great Streets Program: The Great Streets Initiative was created in 2006 to revitalize distressed corridors and transform emerging corridors, such as New York Avenue, N.E. and Georgia Avenue, N.W. It is led by DMPED in conjunction with the Office of Planning (“OP”) and the District Department of Transportation (“DDOT”). Currently, there are 13 Great Streets corridors. DMPED fosters economic growth in these

³⁵ See, <http://dcnewcommunities.org/about-nci/>.

³⁶ *Id.*

corridors by investing in small business development via the Great Streets Retail Small Business Reimbursement Grants. The grants are competitive grants of up to \$50,000 for qualified small business owners who wish to improve their businesses. The overall goal of Great Streets is to support existing small businesses, attract new businesses, create new job opportunities for District residents, and increase the District's tax base. Since 2015, the Great Streets program has provided more than \$18.7 million in Great Streets grants to 367 small businesses across 13 corridors throughout the District.³⁷

The Great Streets Corridors currently included the following areas:

- 7th St., N.W.
- Connecticut Ave., N.W.
- Georgia Ave., N.W.
- H St., N.E. – Bladensburg Rd., N.E.
- Minnesota Ave., N.E. – Benning Rd., N.E.
- Martin Luther King, Jr. Ave, - South Capitol St., S.E./S.W.
- Nannie Helen Burroughs Ave., N.E.
- New York Ave., N.E.
- North Capitol St., N.E./N.W.
- Pennsylvania Ave., S.E.
- Rhode Island Ave., N.E.
- U St. – 14th St., N.W.
- Tenleytown Retail Priority Area

To date, in Fiscal Year 2020, the program awarded 58 grants to small businesses across the District totaling approximately \$ \$2,775,474. The Committee is adding the Montello Ave. Retail Priority Area to the New York Ave. NE Great Street and has dedicated funding to the expansion of the Great Streets Corridor.

Neighborhood Prosperity Fund: The Neighborhood Prosperity Fund allows the Mayor to issue competitive grants to eligible mixed-use and retail development projects that are in low-income communities and have a gap in funding for the commercial component of the project.

In Fiscal Year 2017, DMPED piloted this program and received twelve applications. Two awards were made from those initial applications. LDP Holdings LLC received an award of \$2.1 million³⁸ for its Penn Hill project located at 3200 Pennsylvania Avenue, SE. South Capitol Improvement LLC received an award of \$880,000 for its South Capitol Affordable Housing project located at the intersection of Atlantic and South Capitol Streets, SW. In Fiscal Year 2019, DMPED issued six grants: 3451 Benning LLC received \$750,000; 441 Kennedy St. NW ACDC LLC received \$250,000; Banneker Ventures received \$750,000; Dantes Partners LLC received \$150,000; H.E.P. Construction received \$350,000; NHP Foundation received \$750,000.

³⁷ FY21 POH DMEPD Written Testimony

³⁸ This grantee became ineligible to receive the funding, so it was rescinded and returned to DMPED.

The Neighborhood Prosperity Fund gives priority to projects that provide access to fresh food retail in target communities, such as Good Food Market in Ward 8 and Benning Market in Ward 7. Specifically, in January 2019, DMPED noted the groundbreaking for Good Food Markets, which is part of the South Capitol Apartments and Retail development in Ward 8 and received \$880,000 Neighborhood Prosperity Fund grant. In Ward 7, two grants will increase fresh food access and community amenities in the Deanwood and River Terrace neighborhoods, including Market 7, a new marketplace development with a focus on fresh food and startup food operations. Finally, Ward 4 will benefit from two awards that will help deliver retail and a community commercial kitchen along Kennedy Street. The Committee looks forward to the commercial development financed by these grants, as they will provide much needed commercial revitalization.

Tax Revenue: To grow the District’s tax base, the agency has focused on bringing activating parcels back to life and creating revenue. Projects such as Stevens School, Walter Reed, 555 E Street, and 1300 H Street, have been essential in this effort. Additionally, the agency has promoted the District as a place to do business with their #ObviouslyDC campaign. This campaign highlights the District’s workforce, vibrant economy, and infrastructure. Other efforts include the launching of new flights from Dulles International Airport with Cathay Pacific, and international and domestic mission trips. Lastly, the agency has celebrated the opening of the St. Elizabeths Entertainment and Sports Arena, which is anticipated to bring in \$90 million in new tax revenues over the next twenty years and 380 thousand annual visitors to the St. Elizabeths East Campus.

The Committee appreciates the efforts of the agency to enhance the District’s tax base. However, the Committee is also concerned about the current tax incentives offered for economic development projects.³⁹ The Committee recommends that the agency evaluate the effectiveness of the Qualified High Technology Company Incentive (QHTC) tax incentive program to ensure that it aligns with the equitable economic development goals of the District.

Opportunity Zones: Opportunity Zones (“OZ”) are a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into OZs designated by the chief executives of every U.S. state and territory. The District created a survey based off three potential Opportunity Zone maps with these themes: 1) East of the River; 2) Retail Corridors; and 3) Creative Industries and Manufacturing.⁴⁰ In April 20, 2018, Mayor Bowser nominated 25 census tracts to be OZs based on the survey results, data, complementary incentives/investments, and levers (ways to maximize community benefit from OZ investments).⁴¹ These tracts

³⁹ See, “Revenue Revealed: It’s Time to Amend DC’s Tax Expenditure Programs”, available at <https://www.dcfpi.org/all/revenue-revealed-its-time-to-amend-dcs-tax-expenditure-programs/>.

⁴⁰ See, <https://dmped.dc.gov/page/opportunity-zones-washington-dc>.

⁴¹ See Prehearing POH Responses

demonstrated the need for development and significant investment opportunities, such as real estate projects and commercial corridors. The U.S. Department of Treasury certified these tracts on May 18, 2018.

DMPED's stated priority for Opportunity Zones is to align these private investments with community priorities and maximize benefits to DC residents of any investment. And, since determining these sites, the Mayor has implemented the following initiatives to help leverage the program: the Opportunity Zones Corps, which will enable community organizations and small businesses to tap into pro bono advice from lawyers and other experts and an online Opportunity Zone marketplace that anyone can access and where projects can be submitted online. The agency also established a partnership with the Rockefeller Foundation to provide technical assistance through Local Initiatives Support Corporation to structure OZ transactions with a focus on equitable development.

The Committee looks forward to these investments, as they have the potential to create significant economic benefits for the designated census tract. Nonetheless, more needs to be done to ensure minorities enjoy the benefits of opportunity zone investments. According to a June 2020 article by Pew Charitable Trust titled, "Black Businesses Largely Miss Out on Opportunity Zone Money," there is data-driven evidence that the minority businesses located in OZs receive little benefit from the OZ investments into their communities.⁴² Moreover, a June 2020 Urban Institute Report stated that "as OZ incentives are not structured to encourage resident or community engagement, mission-oriented projects struggle..."⁴³ The Committee recommends ensuring that investments in Opportunity Zones provide benefits to both the resident and businesses of those zone and that the District is intentional in its efforts to decelerate gentrification and displacement of residents must be considered. The Committee looks forward the agencies solutions to ensuring that minority businesses are not disenfranchised of the financial benefits and economic development of OZ investments.

Enhancing Support Minority and Women Owned Businesses Post-Public Health Emergency: The economic downturn of caused by the public health emergency impacted all economic sectors.⁴⁴ Furthermore, the economic impact of the public health emergency has disproportionately burdened African Americans.⁴⁵ Reports have shown that flaws in the Paycheck Protection Program (PPP) are hindering small businesses owned by minorities and by women from securing federal coronavirus relief.⁴⁶

⁴² Sophie Quinton, *Black Businesses Largely Miss Out on Opportunity Zone Money*. Stateline, Pew Charitable Trusts at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/24/black-businesses-largely-miss-out-on-opportunity-zone-money>

⁴³ See https://www.urban.org/research/publication/early-assessment-opportunity-zones-equitable-development-projects/view/full_report

⁴⁴ Letter from Jeffrey Dewitt, Chief Financial Officer, Office of Chief Financial Officer to Chairman Phil Mendelson, Council of the District of Columbia.

⁴⁵ Doni Crawford and Quibilah Huddleston, *The Black Burden of COVID-19*, DC FISCAL POLICY INSTITUTE (April 16, 2020) at <https://www.dcfpi.org/all/the-black-burden-of-covid-19/>

⁴⁶ Tommy Beer, *Minority-Owned Small Businesses Struggle To Gain Equal Access To PPP Loan Money*, Forbes, May 18, 2020 at <https://www.forbes.com/sites/tommybeer/2020/05/18/minority-owned-small-businesses-struggle-to-gain-equal-access-to-ppp-loan-money/#470e0585de3f>

The Committee applauds DMPED’s efforts to address these issues, including the 2026 microgrants to awardees that provided demographic information on gender and identified as female Black Female Founders (BFF) Labs, an Inclusive Innovation Incubator program that serves as an 8-week pre-accelerator program for aspiring entrepreneurs and focuses on Black female founders. Nonetheless, the Committee believes that additional resources and innovative policies are needed to prioritize the equitable economic recovery for women businesses. For example, DC Anchor Partnership creates opportunities for local, minority and women-owned businesses to successfully compete for and be awarded contracts by universities and hospitals. This program has helped to ensure that minority and women owned businesses are able to get their fair share of contracts with either public or private entities. This budget provides for recurring funds to provide ongoing support for the successful program. Finally, to address the systemic barriers for minority and women businesses, the Committee has recommended a subtitle that will create an Equity Impact Fund to provide funds to equity impact enterprises.

1. COMMITTEE BUDGET RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	1000	1001	0040	Reduction	Recurring	(\$60,000)	(\$61,050)	(\$62,118)	(\$63,205)	Cut budget for Comp Service 401 Travel - Local (\$30k) and 402 Travel - Out of City (\$30k) Fund the BSA subtitle: Equitable Assistance for Local Businesses Act of 2020 (one-time) Enhancement to fund the BSA subtitle: Deputy Mayor for Planning and Economic Development Grant Making Authority Amendment Act of 2020 (one-time) Fund a contract for a disparity study. BSA subtitle: Equity Impact Enterprises Establishment Amendment Act (one-time)
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	2000	2030	0050	Increase	One Time	\$1,250,000				
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	2000	2030	0050	Increase	One Time	\$1,000,000				
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	3000	3010	0041	Increase	One Time	\$750,000				
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	3000	3010	0050	Increase	Recurring	\$50,000	\$50,875	\$51,765	\$52,671	Grants for businesses and community-based nonprofits in Ivy City to conduct recreational program for

DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	3000	3020	0050	Reduction	One Time	(\$1,970,000)					youth ages 0-24, including organized sports, boxing, martial arts, and other recreation Eliminate Qualified High Technology Companies (QHTC) real property or possessory interest tax rebates (one-time) as funded by the Mayor in BSA Subtitle (II)(A) Creative and Open Space Modernization Tax Rebate Amendment Act of 2020
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	5000	5080	0050	Increase	One Time	\$100,000					Expand the New York Avenue Priority Area to include Montello Ave. NE (one-time). Funds the New York Avenue N.E. Retail Priority Area Expansion Amendment Act of 2020
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	5000	5085	0050	Reduction	One Time	\$598,852					Enhancement for use in BSA subtitle: Economic and Community Development Grants in Wards 5, 7, and 8. Pays tax rebates authorized under D.C. Official Code § 47-4665. (one-time)
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	6000	6020	0011	Reduction	Recurring	(\$98,947)	(\$98,947)	(\$98,947)	(\$98,947)		Project Manager, position #00077678 - Eliminate salary for 1 vacant FTE. Position is currently frozen.
DEPUTY MAYOR FOR PLANNING AND ECON DEV	0100 - LOCAL FUND	6000	6020	0014	Reduction	Recurring	(\$19,987)	(\$20,287)	(\$20,591)	(\$20,900)		Project Manager, position #00077678 - Eliminate fringe benefits for 1 vacant FTE. Position is currently frozen.

b. Fiscal Year 2021 Capital Budget Recommendations

2. COMMITTEE POLICY RECOMMENDATIONS

- a. The Committee recommends that the agency implement additional strategies to support diverse women and minority founders and promote equitable economic development in the District.
- b. The Committee recommends that the agency explore additional mechanisms to increase affordable housing units in the District.
- c. The Committee recommends that the agency conduct an assessment of current tax incentives to determine if new incentives are necessary to enhance the District's economic development efforts.
- d. The Committee recommends that the agency consider reviewing all development agreements that have occurred in the past three fiscal years to ensure meaningful Certified Business Enterprise (CBE) partner participation.
- e. The Committee recommends that the agency assess all community benefits agreements that have been implemented in the last four fiscal years to ensure that the agreements have been fully executed or are in the process of being fully executed.

G. DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT (EN0)

Department of Small and Local Business Development						
LOCAL FUND	\$15,347,699	\$15,953,474	\$15,213,555	\$710,740	\$15,924,294	-0.2%
FEDERAL GRANT FUND	\$418,992	\$471,180	\$558,907		\$558,907	18.6%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$802,327	\$0			\$0	
OPERATING INTRA-DISTRICT FUNDS	\$202,500	\$0			\$0	
TOTAL GROSS FUNDS	\$16,771,518	\$16,424,654	\$15,772,461	\$710,740	\$16,483,201	0.4%

Department of Small and Local Business Development						
LOCAL FUND	48.8	48.3	50.3		50.00	3.6%
FEDERAL GRANT FUND	3.0	3.8	3.8		3.00	-20.0%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	0.0	0.0			0.00	
OPERATING INTRA-DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	51.83	52.00	54.00	0.00	53.00	1.9%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The Department of Small and Local Business Development's ("DSLBD") mission is to support the development, economic growth, and retention of District-based businesses, and promote economic development throughout the District's commercial corridors. DSLBD was established by the "Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005."⁴⁷ Statutorily, DSLBD administers and oversees the Certified Business Enterprise ("CBE") program. DSLBD is also responsible for business development programs, and technical assistance offerings.⁴⁸ These programs maximize the opportunities for certified business enterprises to participate in the following:

1. The District's contracting and procurement process;
2. The District's economic development activities; and
3. Federal and private sector business opportunities.⁴⁹

⁴⁷ "Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005", effective October 20, 2005 (D.C. Law 16-33; D.C. Official 2-218.01 § *et. seq.*).

⁴⁸ D.C. Official Code § 2-218.13(2).

⁴⁹ *Id.*

Furthermore, DSLBD fosters business development by offering training and financing assistance to small businesses. To effectuate DSLBD's mission, DSLBD is authorized to issue grants to local businesses, community and neighborhood groups, or nonprofit organizations.⁵⁰ DSBLD resources and programs are designed to certify businesses into the CBE program, ensure compliance with District laws, and supports businesses through programs such as District Capitalized, and the DC Procurement Technical Assistance Center (DC-PTAC). Each program or resource is available to provide District-based businesses with the knowledge and capacity-building tools necessary to form, develop, and grow.

The Department has four divisions including, Commercial Revitalization; Certification (which includes Compliance); Business Opportunities and Access to Capital; and Agency Management. The Commercial Revitalization division provides technical and funding assistance that supports DC Main Streets, Commercial Clean Teams and up until Fiscal Year 2021, the Healthy Foods Programs. The Certification division is responsible for processing and overseeing CBE applications. Additionally, the Compliance division ensures that District agencies and public-private projects comply with District laws concerning CBE utilization and participation. The Business Opportunities and Access to Capital division provides access to capital and administers the DC-PTAC Program. Furthermore, this division offers classes and trainings, and facilitates technical assistance for capital acquisition, innovation and equitable development. The Agency Management division provides administrative support to the entire Department.

b. Mayor's Proposed Fiscal Year 2021 Operating Budget

The Mayor's proposed Fiscal Year 2021 operating budget for DSLBD is \$15,772,461 which is a 4.0% reduction from Fiscal Year 2020 approved budget of \$16,424,654. The budget is comprised of \$15,214,000 in Local funds and \$559,000 is Federal Grants funds. This funding supports 54 full time equivalents (FTEs), which is a 3.8 percent increase to the Fiscal Year 2020 approved budget.

Local Funds: The Mayor's proposed Fiscal Year 2021 Local funds allocation is approximately \$15,214,000, which represents a decrease of \$740,000 or 4.6%.

Federal Grants: The Mayor's proposed Fiscal Year 2021 Federal resources is \$559,000-, which represents an 18.6% increase from \$471,000, in Fiscal Year 2020.

Intra-District Funds: The Mayor's proposed Fiscal Year 2021 does not include any Intra-District funds.

Committee Analysis and Comments

The Committee recommends adoption of the Fiscal Year 2021 operating budget, with minor changes, for the Department of Small and Local Business Development.

Committee Analysis and Comments

⁵⁰ D.C. Official Code § 2-218.13.

The Committee recommends adoption of the Fiscal Year 2021 operating budget, with critical enhancements provided to support the mission of the Department of Small and Local Business Development.

The Fiscal Year 2021 budget will forever alter the social and economic trajectory of the District of Columbia. COVID-19 created an unprecedented crisis for residents of the District of Columbia. Many businesses, especially minority-owned businesses face permanent closure. The Committee responds to this ongoing crisis by advancing policies specifically and intentionally designed to support the most underserved businesses across the District. This means ensuring that Black owned firms have the requisite startup capital, opening new pathways to opportunities, and prioritizing those historically left behind because of centuries of structural racism and institutional inequality.

A recent Brookings report noted that compared to January 2020, small businesses in North Dakota, Washington, D.C., and Hawaii have experienced a revenue loss of over sixty percent on average since March 13 of this calendar year. Further, it's been reported that Florida, Nevada, and DC are among the most exposed to small business revenue impact, with declines in revenue of over fifty percent. Yet, all three still have massive PPP application backlogs, with fewer than forty percent of applicants receiving a loan. The business journal also reported that the most recent totals for PPP loan approvals in the District actually dropped since the initial round. The SBA attributed this drop to “a combination of loans being canceled..” and “a slowdown in new applications.”

The Committee has taken important steps to provide immediate and long-term relief to small and local businesses. This includes passing emergency legislation establishing a microgrant program, increasing the minimum subcontracting amount with CBEs from 35% to 50%, and allowing contractors to be paid in advance.

Further, under the leadership of Director Whitfield, the Department has also pivoted programs to provide immediate support and relief to local businesses. This includes securing a Small Business Administration declaration for economic injury assistance, awarding and disbursing close to \$800,000 in Robust Retail grants; organizing and participating in a host of tele-town halls and webinars geared towards helping businesses find new and innovative ways to pivot.

However, the Committee does not clearly see how the Mayor's Proposed budget offers a sustained approach or any new significant investment to assist businesses in recovery. The proposed enhancements outlined in this report, then, takes a very targeted and intentional investment in that recovery.

Certified Business Enterprises: DSLBD administers and oversees the CBE program, which provides preferences to District-based firms pursuing District Government issued procurement opportunities. Thirty-five percent of the total amount of District agency contracts, construction contracts, public-private partnerships, and government assisted projects must be contracted or subcontracted to a small business enterprise or certified

business enterprise.⁵¹ If an agency or developer believes that they cannot meet the thirty-five percent requirement, they may seek a waiver of the requirement from DSLBD.⁵²

Director Kristi C. Whitfield (Director Whitfield) testified at DSLBD's performance oversight hearing that DSLBD is responsible for monitoring 88 District agencies' operating and capital spending with CBEs. The Compliance team specifically provides oversight of District government agencies and government-assisted projects to ensure compliance with District law concerning CBE utilization and participation. The success of the CBE program heavily relies on DSLBD's ability to efficiently and effectively monitor District agencies and public-private partnerships.

The CBE program is an important advantage to small and local businesses and promotes diverse economic development in the District of Columbia. By law, agencies are required to spend fifty percent of their expendable budget with SBEs.⁵³ The Committee is disappointed that thirteen District Government agencies failed to meet their SBE goal in FY18. Even more disconcerting, in FY19, the number of agencies not meeting their SBE goals increased to twenty-four agencies.⁵⁴ This includes the Not-for-Profit Hospital Corporation, who also did not meet their goal in FY18 and only achieved ten percent toward their goal in FY19. This also includes the Department of Housing and Community Development, the Department of Corrections, and the District Department of Transportation, which only achieved fifty-nine percent towards their goal.

Although the Executive lauds the overall number of SBE spend, the Committee is concerned about the growing number of agencies failing to meet their goals. The Committee also remains concerned about data from the Minority and Women-Owned Program Assessment (Assessment) that showed SBEs are simply not being awarded contracts.

According to the Assessment, between 2016 and 2018, a total number of 1,326 firms were awarded contracts under the District's procurement process. Among them, 870 (66%) were non-CBEs and just 456 (34%) were CBEs. Just 341 (26%) were firms that identified as minority and 152 (11%) identified as woman owned.⁵⁵

The agency must also actively deter bad actors from abusing the CBE program. DC Code 2-218.63 allows the agency to assess ten percent of the dollar volume of the contract for failure to comply with mandatory subcontracting requirements. The law also gives the agency broad authority to deny waivers, revoke CBE certifications, and even set aside agency budgets that fail to meet their SBE goals.

⁵¹ The "Small and Certified Business Enterprise Development and Assistance Act of 2005," effective Oct. 20, 2005, (D.C. Law 16-33, D.C. Official Code § 2-218.01 *et seq.*).

⁵² *Id.* (D.C. Official Code §2-218.51)

⁵³ *Id.* (D.C. Official Code §2-218.41)

⁵⁴ According to the agency's BOH follow-up responses, attachment entitled, "BOH – Response – Question 5".

⁵⁵ <https://lms.dccouncil.us/downloads/LIMS/43972/Introduction/RC23-0138-Introduction.pdf>

In the Director's performance oversight hearing testimony, Director Whitfield acknowledged concerns about fraud, abuse, and gaps in enforcing compliance law, noting, "no law is perfect, and as bad actors find ways to skirt the rules, there is always a need for improvement." She went on to add that, "the Bowser Administration is exploring ways to tighten the letter of the law and close loopholes so that the CBE program aligns more closely with the spirit of helping genuine, local businesses."⁵⁶

The agency should be applauded for its efforts in helping businesses to receive payments and in assessing fines and penalties to bad actors. The Director noted, "In FY19, DSLBD helped subcontractors collect more than \$1.8 million dollars in late payments from primes."⁵⁷ Further, while the agency also acknowledged in their written testimony that "primes had not been adhering to the CBE law's 35% subcontracting requirement" they cited the fact that they had levied and collected the "largest amount of fines in the agency's history from primes who failed to subcontract the required amount of work to qualified businesses."

Unfortunately, this practice of primes not complying with the law is far too rampant. More troubling, is the fact that many Executive agencies and independent procurement agencies do not closely follow and agree to the interpretation of many of DSLBD related laws. These discrepancies are made manifest time and time again when D&Fs are not submitted, when contracts under \$250,000 are not sent directly to SBEs, when OCP allows agencies to enter into contracts in the option year prior to waivers being submitted. The Committee will continue to aggressively advance legislation to ensure coordination among the Executive and to clarify laws where needed.

An important program within DSLBD focused on capacity building is the DC-Procurement Technical Assistance Program (DC-PTAC). DC-PTAC offers personalized business counseling and technical assistance to assist small businesses in obtaining local, state, and federal government contracts. Moreover, DC-PTAC connected over 350 District-based businesses to roughly \$32.5 million in federal and local government contracting opportunities. The Procurement Technical Assistance Program appears to be an extremely beneficial program that could be utilized more fully to address concerns related to the CBE program.

In addition to the Procurement Technical Assistance Program, access to capital is essential to small business and certified business enterprises' survival. DSLBD oversees the Small Business Capital Access Fund (Microloan).⁵⁸ The Committee was disappointed to see the Mayor's proposed budget zero out this fund. However, the agency provided local makers with new avenues of opportunity through their work involving the Made in DC

⁵⁶ Kristi Whitfield testimony, "Final – Whitfield – DSLBD – POH Testimony 1.13.2020.pdf"

⁵⁷ Ibid.

⁵⁸ The "Capital Access Program Act of 2010," effective Mar. 12, 2011 (D.C. Law 18-322; D.C. Official Code § 2-1210.02).

Program. Particularly, through their partnership with the Metropolitan Washington Airports Authority.

In partnership with the Department of Employment Services, Court Services and Offender Supervision Agency for the District of Columbia, Capital Area Asset Builders, and the Office of Returning Citizens Affairs, DSLBD co-sponsored and conducted the Aspire to Entrepreneurship program.⁵⁹ The program trains returning citizens through a specialized curriculum created to teach participants about financial literacy, entrepreneurship start up basics, marketing basics and business management and development. The program also provides mentoring and aims to help returning citizens start their own businesses and become CBEs. The Committee understands the agency made some difficult decisions to realign spending priorities to assist businesses with recovery from COVID-19. The fact they were able to continue trainings and services to returning citizens without the full budget is commendable.

The proposed budget in FY19 included an increase of \$450,000 in one-time funds to expand the Aspire to Entrepreneurship and Dream Grants programs. The Director noted, “With a focus on East-of-the-River entrepreneurs, DSLBD developed weekly programming in Ward 7 to support leadership identification and ongoing development through the Build a Dream training series and the issuance of 17 Dream Grants totaling over \$160,000.

Main Streets and Clean Teams: DC Main Streets is a comprehensive program that promotes the revitalization of traditional business districts. This program also supports traditional retail corridors in the District of Columbia through providing services and offering grants. Many public witnesses at DSLBD performance and budget oversight hearings were present to testify about the DC Main Streets program. Executive Directors from various DC Main Streets testified about the successful and needed partnership between them and DSLBD by highlighting how the grants have helped their programs, corridors, and businesses.

In the agency’s Performance Oversight responses, they noted that in FY19, the Main Street programs have spurred the creation of 900 new businesses, created 6,500 jobs and infused over \$300 million in local and public improvements. There were six new Main Streets established in FY19 and a total of 24 across the city. This year’s budget will add one new Main Street.

DSLBD’s Commercial Clean Team program provides grants to Clean Teams to remove litter and snow, recycle items collected from sidewalks and gutters, landscaping and maintenance of streets in their designated area. The Committee received a great deal of testimony during DSLBD’s performance and budget oversight hearings from public witnesses testifying to the importance of the Clean Team program. Clean Teams provide

⁵⁹ Office of the Deputy Mayor for Greater Economic Opportunity, Aspire to Entrepreneurship Pilot Program, available at https://dmgeo.dc.gov/sites/default/files/dc/sites/dmgeo/page_content/attachments/Aspire%20to%20Entrepreneurship.pdf.

necessary services to neighborhoods to ensure they are aesthetically pleasing, which in turn makes neighborhoods more inviting, and ultimately, helps businesses thrive. Clean Teams also enhance opportunities for those who work on the Clean Teams by providing stable job opportunities that contribute to the economic development of all District residents. This year’s budget will include two new Clean Teams.

The Committee believes the District should have a vested interest in the success and welfare of minority and women-owned businesses (MBE and WBE) based in the District. The Committee is disappointed with the final results of what they called the “Disparity Framework”. The Committee called on the agency, by law, pursuant to DC Official Code 2-214.01 to conduct a true disparity framework. The final report revealed that the data was so disparate that the District should improve its data systems and build on the “Framework.”

FY	Woman Owned			Minority Owned		
	CBE	SBE	SBE Count	CBE	SBE	SBE Count
2018	\$151,605,281	\$129,667,765	210	\$719,087,139	\$476,553,526	425
2019	\$204,471,592	\$187,865,260	225	\$750,527,636	\$602,899,518	496
2020 Q1	\$31,483,971	\$29,575,485	157	\$155,298,825	\$111,068,970	341

Staffing Vacancies: The Department’s Schedule A notes at there are no vacancies.

Budget Support Act: The Mayor proposed two subtitles that directly implicate DSLBD. The Committee recommends one additional subtitle directly related to the Department.

Healthy Food Programs: The Mayor’s proposed budget zeroed out this program.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Fiscal Year 2021 operating budget for the Department of Small and Local Business and Development, as proposed by the Mayor, with the following modifications in local funds:

1. The Committee recommends accepting \$200,000 from the Committee on Transportation and the Environment to create a new Main Street program in Chevy Chase. Increase CSG 50 – Subsidies and Transfers, Program 4000 Commercial Revitalization, activity 4030 Main Streets.
2. The Committee recommends accepting \$130,870 in recurring funds from the Committee on the Judiciary for a new Clean Team in Eastern Market. Increase CSG

50 – Subsidies and Transfers, Program 4000 Commercial Revitalization, activity 4040 Commercial Clean Teams.

3. Increase CSG 50 by \$60,000 in recurring – Subsidies and Transfers, Program 4000, Commercial Revitalization, activity 4040 to support the expansion of the Trinidad Clean Team.
4. Increase CSG 50 by \$130,870 in recurring – Subsidies and Transfers, Program 4000, Commercial Revitalization, activity 4040 to support the creation of a new Clean Team in Ivy City beginning at Mt. Olivet Road, NE, to West Virginia Avenue, NE to Fenwick Street, NE to Gallaudet Street, NE to Kendall Street, NE, back to Corcoran Street, NE and concludes at Mt. Olivet Road, NE.
5. *Enhance* in Program 3000, Activity 3060, CSG – 41 contractual services – other, for \$1 million to fund a contract for a disparity study. BSA subtitle: Equity Impact Enterprise Establishment Act (one-time)
6. One-time enhancement to 1000 Agency Management, activity 1040 Information Technology, CSG Contractual Services – in the amount of \$120,000 in one-time funds for a database enhancement associated with the Equity Impact Enterprise Establishment Act.
7. Transfer in from the Committee on Recreation and Youth Affairs for Dream Grants for Ward 7 and 8 Microbusinesses increase 3000, business opportunities and access to capital, activity 3060, business development, CSG 50 – subsidies and transfers, in the amount of \$250,000 in one-time funding.

b. Fiscal Year 2021 Capital Recommendations

1. *Reduction* of \$720,000 in ENS16C, Small Business IT System.

c. Policy Recommendations

1. The Committee recommends using the full authority provided under the law to penalize agencies that failed to meet less than 80% of their SBE goals.
2. Collaborate with DMPED to ensure the successful and timely completion of the Fiscal Year 2021 Disparity Study.

H. ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION (LQ0)

Alcoholic Beverage Regulation Administration						
LOCAL FUND	\$0	\$0		\$359,247	\$359,247	
DEDICATED TAXES	\$1,146,175	\$1,170,000	\$1,193,826		\$1,193,826	2.0%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$6,798,874	\$7,957,758	\$8,710,960	\$351,357	\$9,062,316	13.9%
OPERATING INTRA-DISTRICT FUNDS	\$0	\$0			\$0	
TOTAL GROSS FUNDS	\$7,945,049	\$9,127,758	\$9,904,785	\$710,604	\$10,615,389	16.3%

Alcoholic Beverage Regulation Administration						
LOCAL FUND	0.0	0.0		1.00	1.00	
DEDICATED TAXES	0.0	0.0	0.0		0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	52.3	59.0	60.0	5.00	65.00	10.2%
OPERATING INTRA-DISTRICT FUNDS	0.0	0.0			0.00	
TOTAL FTE	52.32	59.00	60.00	6.00	66.00	11.9%

1. COMMITTEE ANALYSIS AND COMMENTS

1. AGENCY MISSION AND OVERVIEW

The mission of the Alcoholic Beverage Regulation Administration (ABRA) is to support the public's health, safety and welfare through the control and regulation of the sale and distribution of alcoholic beverages.⁶⁰ ABRA issues and renews licenses that permit qualified businesses to sell and serve alcoholic beverages.⁶¹ ABRA also monitors compliance with Alcoholic Beverage Control Board (ABC) laws and takes appropriate enforcement action when a licensee violates these laws. When appropriate, ABRA recommends new laws regulating the manufacture, distribution, and sale of alcoholic beverages in the District.⁶² ABRA also offers educational resources to help licensees prohibit the sale of alcohol to underage individuals.⁶³ ABRA is dedicated to enriching the health, safety and welfare of residents patronizing more than 2,000 ABC-licensed establishments in the District.⁶⁴ Accordingly, ABRA educates ABC establishments on compliance with ABC laws, policies and procedures.⁶⁵

⁶⁰ About ABRA, ABRA, <https://abra.dc.gov/page/about-abra> (last visited May 20, 2020).

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

ABRA operates through the following 4 programs: licensing, investigations, records management, and agency management.⁶⁶

Licensing: The licensing program “issues new and renewal licenses to liquor stores, grocery stores, restaurants, hotels, nightclubs, and other establishments that manufacture, distribute, sell, or serve alcoholic beverages in the District of Columbia, and works with Records Management to keep accurate and accessible paper and data records of all licensing program activities.”⁶⁷ The licensing personnel reviews and proposes modifications to licensing processes, regulations, and licensing fees. For Fiscal Year 2019, ABRA: (1) received 657 temporary and one-day substantial change license applications, that were all processed and issued permits within 15 days or less; (2) processed and issued 3,600 renewal licenses or permits, and (3) met its 90% target rate to process temporary or one-day substantial change application within 15 days. Through its licensing program, ABRA was able to generate \$8,427,699 for FY19 which is \$4,727,699 above its FY19 target. The licensing program also processes Extended Hours applications which allows the Agency to grant eligible businesses the permission to sell and serve alcoholic beverages for 24 hours during public holidays or until 4 a.m. on non-public holidays.

Investigations: The investigation program conducts regulatory and voluntary agreement compliance inspections, underage compliance checks, and joint investigations as needed with the Metropolitan Police Department, the Fire and Emergency Medical Services Department, the Office of Tax and Revenue, the Department of Consumer and Regulatory Affairs, and others. The program also conducts various inspections associated with licensing and adjudicatory processes such as final, compliance, placard, special event, and financial audit investigations. All activities within the program serve to strengthen the awareness of, and compliance with, the appropriate laws and regulations of the District of Columbia. For FY19, the program conducted 1,198 inspections to ensure compliance with underage drinking laws which exceeded its 900 initial inspection targets, and overall conducted 14,951 inspection which exceeded its 10,000 initial target.

Records Management: Records Management program provides files, documents, and database information to ABRA staff, the Alcoholic Beverage Control (ABC) Board, and the general public including licensees, and the Advisory Neighborhood Commissions (ANCs) so that they can receive accurate information and files. The program also provides certification services, responds to and tracks Freedom of Information Act requests, and responds to subpoena requests. The records management program is a component of the Administrative Services Division which includes ABRA’s public affairs and community outreach teams. These teams provide training to ANCs, community associations, and ABC licensees.⁶⁸ For Fiscal Year 2019, the program provided 328 licensees and members of the public trainings on ABRA laws exceeding its 75-person target rate.⁶⁹

⁶⁶ Fiscal Year 2021 Proposed Budget and Financial Plan, *Alcoholic Beverage Regulation Administration*, Agency Budget Chapter – Part III, Pp. F-4, available at <https://app.box.com/s/4f3epemwcd2073r910mcchqdkb47gmze> (last visited May 20, 2020).

⁶⁷ *Id.*

⁶⁸ *Supra*, at note 7, Pp. F-6.

⁶⁹ *Id.* at F-7.

Agency Management: The agency management program provides for administrative support and the required tools to achieve operational and programmatic results. This program is standard for all agencies using performance-based budgeting.

2. MAYOR’S PROPOSED FISCAL YEAR 2021 OPERATING BUDGET

Proposed Operating Budget Summary

The Mayor’s proposed Fiscal Year 2021 operating budget for ABRA is \$9,904,785, which represents an 8.5 percent increase over its FY 2020 approved gross budget of \$9,127,758. This funding supports 60 Full-Time Employees, which represents a 1.7% change from the FY 2020 approved budget. The budget is comprised of \$1,193,826 in Dedicated Taxes and \$8,710,960 in Special Purpose Revenue funds.

Dedicated Taxes: The Alcoholic Beverage Regulation Administration (ABRA) budget proposal in Dedicated Tax funds in the Investigation program includes an increase of \$23,826 to align the budget with projected resources to cover potential costs incurred for the Metropolitan Police Department’s reimbursable details.

Local Funds: The Mayor’s proposed FY21 budget for ABRA includes no local funds.

Special Purpose Revenue Funds: The Mayor’s proposed FY 2021 budget for ABRA includes an increase of \$793,012 and 1 FTE to support projected cost-of-living and other salary and Fringe Benefits adjustments. The Fund also reflects an increase of \$10,000 in the Agency Management program to support nonpersonal services cost such as equipment purchases. Lastly, the Funds reflects a decrease of \$49,810 across multiple programs to align budget with projected revenues. This is reflected in lower anticipated costs for printing and decreases in OCTO’s projected IT assessments.

Intra-District Funds: The Mayor’s proposed FY 2021 budget for ABRA includes no intra-district funds.

Private Donations: The Mayor’s proposed FY21 budget for ABRA includes no private donations.

3. COMMITTEE ANALYSIS AND COMMENTS

On March 11, 2020, Mayor Muriel Bowser declared both a state of emergency and a public health emergency in the District of Columbia as a response to the outbreak of a global pandemic known as the coronavirus or COVID-19. The declarations forced the District government to implement some of the toughest rules and regulations on social distancing in order to reduce the spread of the virus until a vaccine is invented. ABRA establishments such as restaurants, bars, night clubs, liquor stores, etc. have unfortunately endured the brunt of the economic and social effects of the social distancing guidelines.

Most ABRA establishments have resorted to only off-premise services such as carry-out and delivery in order preserve cash flow to keep their businesses afloat.

The Committee recognizes ABRA's critical role and commends its proactive efforts to respond to the COVID-19 pandemic in an expeditious manner. Once the state of emergency and public health emergencies were declared, ABRA: (1) issued rulemaking to defer license fee payments until the emergencies expired; (2) extended off-premise privileges to on-premise establishments to maintain cash flow for their establishments; and (3) played an active role in implementing the recommendations from the ReOpen DC Commission including making permits more accessible for outdoor dining. The Committee commends the agency on its incredible efforts during these tough times but would like to encourage the agency to pay closer attention and seek out other creative avenues to assist small businesses at this time many of which have closed. The Committee would also advise the agency to be watchful that some of the policies it is adopting in this exigent period are not detrimental in the long run even after the pandemic is over. For instance, permanently extending off-premise privileges to on-premise retailers, the Committee would like to advise the agency to be watchful and monitor whether there are grave financial effects on off-premise retailers who have off-premise licenses solely for off-premise purposes.

4. COMMITTEE RECOMMENDATIONS

a. Fiscal Year Operating Budget Recommendations

The Committee recommends adoption of the Fiscal Year 2021 operating budget for ABRA, as proposed by the Mayor, with the following policy recommendations.

b. Policy Recommendations

1. In response to COVID-19 additional outdoor dining space and licensing for on-premise retailers was established. The Committee recommends a study to assess the impact of on-premise retailers now being able to deliver off-premise on off-premise retailers; and further whether it is still necessary to continue to separate the two license categories).

2. The Committee recommends examining the 400-foot rule on drug free zones to determine whether the rule is now archaic and still practical given the changing landscape of the urban environment.

3. The Council is currently considering legitimatizing recreational cannabis and medical cannabis has been transferred from DOH to ABRA. ABRA should seek ways bolster social equity for African Americans who have been disenfranchised from this industry due to the country's position on the war on drugs.

4. Games of Skill is a new entry into the DC marketplace, and as such the agency should monitor it for opportunities in improve oversight.

I. CAPTIVE INSURANCE AGENCY (RJ0)

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Captive Insurance Agency (“the Captive” or “Agency”) is to provide medical malpractice insurance for local non-profit health centers and to procure real property insurance for District government real property assets, personal property insurance for District personal property assets, liability insurance to protect the District against loss arising out of a legal liability to others, and such other insurance policies as the Risk Officer determines necessary to minimize risk of loss to the District.⁷⁰

The Captive was created by statute and administered by the Chief Risk Officer, Office of Risk Management (“ORM”) in 2008. It was incorporated by ORM in Fiscal Year 2008. The liability of the Captive is limited to the funds available to the Agency’s participants. In Fiscal Year 2014, the scope of the agency was expanded to include property insurance.⁷¹

The Captive operates through one program, Captive Operations. Captive Operations funds the management and insurance policies of the Captive. The ORM underwrites and administers medical malpractice insurance policies to non-profit community health centers and offers gap insurance to Federally Qualified Health Centers for claims that are not covered by the Federal Tort Claims Act. It also provides property insurance for risks to District government real property assets for various hazards. The Chief Risk Officer administers the Subrogation Fund.⁷²

b. Mayor’s Proposed Fiscal Year 2021 Operating Budget

Proposed Operating Budget Summary

The Mayor’s proposed Fiscal Year 2021 gross budget for the Captive Insurance Agency is \$4,411,974, which represents an increase of \$1,370,980, or 45.1%, over the Fiscal Year 2020 approved gross budget of \$3,040,994. The budget is comprised of \$3,744,472 in Local Funds and \$667,502 in Special Purpose Revenue funds.⁷³

Local Funds: The Mayor’s proposed Fiscal Year 2021 Local Funds budget for the Captive is \$3,744,472, representing an increase of \$1,592,289, or 74% over the Agency’s approved Fiscal Year 2020 Local Funds budget of \$2,152,183. The Captive’s Local Funds

⁷⁰ FY 2021 Proposed Budget and Financial Plan, Vol. 2, Captive Insurance Agency, PP (2020).

⁷¹ *Id.*

⁷² *Id.* at PP.

⁷³ *Id.* at PP.

budget would support 4 FTEs, which represents no change to FTEs from the Fiscal Year 2020 approved budget.⁷⁴

Special Purpose Revenue Funds: The Mayor’s Fiscal Year 2021 proposed Special Purpose Revenue Funds budget for the Captive is \$667,502, which represents a \$221,309, or 24.9% decrease from the Agency’s approved Fiscal Year 2020 Special Purpose Revenue budget of \$888,811. The Captive’s Special Purpose Revenue Funds budget would support 2 FTEs, which represents an increase of 2 FTE’s from the Agency’s Fiscal Year 2020 approved number.⁷⁵

Intra-District Funds: There are no Intra-District Funds identified in the Mayor’s Fiscal Year 2021 proposed budget for the Captive.

Committee Analysis and Comments

The Mayor’s Fiscal Year 2021 proposed budget for the Captive reflects no change to the Medical Liability Captive Insurance recurring budget. The Agency’s proposed budget for Captive Operations includes a one-time enhancement of \$1,582,513 in Local Funds for Oversight activity. This enhancement will offset anticipated increases in insurance coverage, real property, cyber security, and fine arts.⁷⁶

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the proposed Fiscal Year 2021 operating budget for the Captive Insurance Agency, as proposed by the Mayor, with the following modifications.

1. Sweep \$696,000 from the Subrogation Fund
2. Sweep \$3,350,000 from the Captive Insurance Fund

J. DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

Department of Insurance, Securities & Banking						
LOCAL FUND	\$0	\$0			\$0	
FEDERAL GRANT FUND	\$452,433	\$139,000	\$139,000		\$139,000	0.0%
PRIVATE GRANT FUND	\$44,800	\$0			\$0	
PRIVATE DONATIONS	\$0	\$0			\$0	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$20,496,708	\$27,773,358	\$32,877,001	-\$591,698	\$32,285,303	16.2%

⁷⁴ *Id.* at PP.
⁷⁵ *Id.* at PP.
⁷⁶ *Id.* at PP.

OPERATING INTRA-DISTRICT FUNDS	\$119,178	\$133,000	\$133,000		\$133,000	0.0%
TOTAL GROSS FUNDS	\$21,113,119	\$28,045,358	\$33,149,001	-\$591,698	\$32,557,303	16.1%

Department of Insurance, Securities & Banking						
LOCAL FUND		0.0	0.0			0.00
FEDERAL GRANT FUND		0.0	0.0	0.0		0.00
PRIVATE GRANT FUND		0.0	0.0			0.00
PRIVATE DONATIONS		0.0	0.0			0.00
SPECIAL PURPOSE REVENUE FUNDS (OTYPE)		126.0	144.0	144.0	(5.00)	117.00
OPERATING INTRA-DISTRICT FUNDS		0.0	0.0	0.0		0.00

2. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Department of Insurance, Securities, and Banking (“DISB” or “Agency”) is to cultivate a regulatory environment that protects consumers and attracts and retains financial services firms to the District, to empower and educate residents on financial matters, and to support the development and expansion of small businesses by providing financing and other services.⁷⁷ DISB regulates financial services entities operating in the District’s financial market. These financial services entities include: 1) insurance companies and producers, health maintenance organizations, captive insurance companies, and risk retention groups; 2) investment advisors and investment advisor representatives, broker-dealers and broker dealer agents, securities offerings, issuers, and agents of issuers; and 3) District and state-chartered banks, mortgage lenders and brokers, mortgage loan originators, check cashers, money transmitters, consumer sales finance companies, money lenders, appraisal management companies, student loan servicers, and consumer credit service organizations.⁷⁸

DISB has five objectives for Fiscal Year 2021: 1) Provide high quality and efficient consumer protection services to District residents and businesses; 2) Establish the District as a premier destination for financial services firms in order to increase the number of financial industry jobs available for District residents and generate additional revenue for the District; 3) Provide high quality services to financially empower residents and create pathways to the middle class; 4) Provide valuable assistance and support to District based small businesses and entrepreneurs that will create or retain jobs; and 5) Create and maintain a highly efficient, transparent, and responsive District government.⁷⁹

b. Mayor’s Proposed Fiscal Year 2020 Operating Budget

⁷⁷ FY 2021 Proposed Budget and Financial Plan, Vol. 2, Department of Insurance, Securities, and Banking, PP (2020) [hereinafter FY21 Vol. 2].

⁷⁸ *Id.*

⁷⁹ *Id.* at PP.

Proposed Operating Budget Summary

The Mayor's proposed Fiscal Year 2021 gross budget for DISB is \$33,149,001, which represents an 18.2% increase over its Fiscal Year 2020 approved budget of \$28,045,358. The budget is comprised of \$32,877,001 in Special Purpose Revenue Funds, \$ 139,000 in Federal Grant Funds, and \$133,000 in Intra-District Funds. There are no Local Funds identified in the Mayor's Fiscal Year 2021 proposed budget for DISB. Finally, the Mayor's Fiscal Year 2021 budget for DISB proposes 144 FTEs, which is the same number of FTEs in the approved Fiscal Year 2020 budget for the Agency.⁸⁰

Local Funds: The Mayor's proposed Fiscal Year 2021 budget for DISB includes no Local funds.

Special Purpose Revenue Funds: The Mayor's proposed Fiscal Year 2021 budget for DISB includes \$32,877,001 in Special Purpose Revenue Funds, which represents a \$5,104,000, or 18.4% increase from the Agency's Fiscal Year 2020 approved Special Purpose Revenue budget of \$27,773,000. This budget supports 144 FTEs, which represents no change to FTEs from the Fiscal Year 2020 approved level.

Federal Grant Funds: The Mayor's proposed Fiscal Year 2021 budget for DISB includes \$139,000 Federal Grant funds, which is represents no change from the Fiscal Year 2020 approved Federal Grant budget for the Agency.

Intra-District Funds: The Mayor's proposed Fiscal Year 2021 budget for DISB includes \$133,000 in Intra-District funds, which represents no change from the Fiscal Year 2020 approved Intra-District budget for the Agency.

Private Donations: The Mayor's proposed Fiscal Year 2021 budget for DISB includes no Private Donations.

Committee Analysis and Comments

Labor Relations: The Special Purpose Revenue funds budget proposal for DISB for the Fiscal Year 2021 includes a net increase in salaries and fringe benefits of \$2,615,621 across multiple divisions. The Committee has previously expressed dissatisfaction with the Agency's high vacancy rate and lack of issued discretionary step increases but is pleased to see demonstrable improvement in the Agency's labor relations.

The proposed Fiscal Year 2021 budget for DISB includes 144 FTEs, which is the same number of FTEs included in the Agency's approved Fiscal Year 2020 budget. To date, DISB has 19 vacant positions. DISB maintains that the Agency's high vacancy rate is attributable to the fact that the Agency has not been fully funded to support the number of FTEs included in the budget. In response to the Committee's follow up questions after the Agency's Budget Oversight Hearing, DISB stated that vacant positions were fully funded in Fiscal Year 2019 but the Agency's budget was cut by \$2,241,961 for Fiscal Year

⁸⁰ *Id.* at PP.

2020. DISB stated that this cut included \$1,559,393 from FY 2019 vacancy savings and elimination of 6 FTEs. DISB also provided information to the Committee stating that the Agency had \$3,255,942.23 in vacancy savings during Fiscal Year 2019.

The Committee posed questions to DISB about the Agency's vacancy rate and labor relations during the Agency's performance oversight hearing. In response to the Committee's follow up questions following the performance oversight hearing, the Agency provided that no quality step increases were approved for DISB employees in Fiscal Year 2017, three were approved in Fiscal Year 2018, and no step increases were approved in Fiscal Year 2019. The Committee is pleased to see that DISB has since approved 12 discretionary step increases during Fiscal Year 2020, to date. The Committee was also impressed with Acting Commissioner Woods' response to the Committee's follow up question on the issue of labor relations, which stated that the Acting Commissioner has instituted bi-weekly meetings with the labor union representative for DISB employees and conducted meetings and listening sessions with DISB staff.

Investment in Small Business Resources: DISB has many small business resources. The State Small Business Credit Initiative (SSBCI) or the District of Columbia Business Capital Program (DC BizCAP) encourages and develops District small businesses through three business-serving programs: Collateral Support⁸¹, Loan Participation⁸² and Innovation Finance.⁸³ DISB administers its BizCAP programs through the Market Services division of the Agency's Banking Bureau. The proposed Fiscal Year 2021 budget includes approximately \$3,771,000 for Market Services in the Banking Bureau.

The Committee has expressed dissatisfaction in the past with the rate of disbursement of funds through these programs. In response to follow up questions provided by the Committee, DISB explained that a \$2,000,000 contingency budget is established for all three programs. In the event of a borrower's default on a loan supported by the Cash Collateral Support program, DISB is required to promptly transfer cash collateral to the participating lender. This budget is allocated each year to enable the Agency to immediately meet its obligation to lenders. In response to the Committee's follow up questions following the Agency's budget oversight hearing, Acting Commissioner Woods expressed her commitment to ensuring that DC BizCAP is active and available to small business as the District moves toward post-pandemic recovery and stated that she will work closely with a newly hired Program Analyst to improve the program and attract new applicants.

⁸¹ This program offers small businesses with funds to deposit in any participating bank, credit union or community development financial institution to provide the necessary collateral to finance business activities.

⁸² This DISB resource provides small business loan support where the business qualifies for a loan but the business cannot meet the conditions of the lender.

⁸³ This program focuses on investing in District start-ups and emerging companies that are interested in alternative funding sources.

Additionally, DISB provided the following information regarding its administration of the BizCAP programs for Fiscal Years 2019 and 2020, to date:

DC BIZCAP BUDGET BREAKDOWN BY FUNDING SOURCE

Program	Allocation	Distribution	Available
Cash Collateral Support & Admin	8,227,911.00	5,171,001.99	3,056,909.01
Loan Participation	2,000,000.00	250,000.00	1,750,000.00
Innovation Finance	3,000,000.00	835,000.00	2,165,000.00
Total	13,227,911.00	6,256,001.99	6,971,909.01

BUDGET DISBURSEMENTS FOR DC BIZCAP

FY 2019	FY 2020 to date
\$25,000	\$2,000,000

BUSINESSES THAT HAVE RECEIVED FUNDS THROUGH THE DC BIZCAP PROGRAM

Business Name	CBE Status	Program	Amount
Forney Enterprises	No	Collateral Support	473,662.50
Broughton Construction Company LLC	Yes	Collateral Support	630,000.00
Baked by Yael LLC	No	Collateral Support	154,667.50
Joon Hokim Inc.	No	Collateral Support	133,520.59
Ivy and Coney LLC	No	Collateral Support	47,484.00
Elite Physical Therapy and Wellness	No	Collateral Support	26,727.00
Union Kitchen LLC	No	Collateral Support	294,573.00
Hot Yoga Ivy City LLC	No	Collateral Support	42,033.48
Solar Solutions LLC	No	Collateral Support	831,742.33
Swatch Room LLC	No	Collateral Support	150,000.00
LEDC Collateral Support – David’s Star	No	Collateral Support	25,000.00
Ice Cream Jubilee LLC	No	Collateral Support	68,806.00

VOW Transportation LLC	No	Collateral Support	16,086.67
Lydia's House in Southeast	No	Collateral Support	75,000.00
Somewhere International LLC	No	Collateral Support	25,000.00
National Children's Museum	No	Collateral Support	1,000,000.00
First Choice Masonry Inc.	Yes	Collateral Support	1,000,000.00
DC Innovation Fund Partnership I	No	Innovation Finance	485,000.00
DC Innovation Fund Partnership II	No	Innovation Finance	100,000.00
DC Innovation Fund Partnership III	No	Innovation Finance	250,000.00
WACIF Loan Participation Program	No	Loan Participation	250,000.00
Total			\$6,079,313.07

The Committee considers these programs to be important to the viability and solvency of small businesses in the District. Ensuring that these programs are well publicized, utilized and accessible is paramount. The Committee will continue to monitor the success of this business initiative and the impact this program and the other small business resources has on them.

Financial Empowerment: DISB operates a Financial Empowerment center through the Community Outreach division of the Agency's Banking Bureau. The Community Outreach division operates the financial empowerment center by providing free, one-on-one financial counseling and education services to District residents. Professionally trained counselors help low- to moderate-income residents manage their financing, pay down debt, increase savings, establish and build credit, and access safe and affordable mainstream banking products.

One way that DISB supports and financially empowers District residents is through the DC Opportunity Accounts savings program.⁸⁴ Income- and asset-eligible District residents participate in the program by making regular deposits of up to \$1,500 total into a savings account. The District and private funders then match each deposit at two dollars for every one dollar deposited by a participating resident. Funds may be withdrawn from the account for various standard and emergency purposes.

The program was originally established in 2001, but after a period of dormancy was revived in Fiscal Year 2020. When the program was relaunched, DISB was able to support 130 Opportunity Accounts with a combination of public and private funding. Joseph Leitmann-Santa Cruz, the Executive Director of Capital Area Asset Builders (CAAB), testified during the Committee's performance oversight hearing and budget oversight hearing on DISB. During both hearings, Mr. Leitmann-Santa Cruz expressed his support

⁸⁴ Opportunity Accounts Act of 2000, effective April 3, 2001 (D.C. Law 13-266; D.C. Official Code § 1-307.61 *et seq.*).

for the Opportunity Accounts program. CAAB is a DC based non-profit organization that partners with DISB to manage the Opportunity Accounts program.

Subtitle (VI)(A) of the Fiscal Year 2021 Budget Support Act of 2020 is called the Opportunity Accounts Expansion Amendment Act of 2020. This subtitle expands and extends the Opportunity Accounts program. The subtitle allows the DISB Commissioner to waive the private funder match contribution requirement and increase the District's matching contribution to up to four dollars for every one dollar deposited by the resident. The subtitle also expands the allowable uses for standard and emergency withdrawals by account holders. The Mayor's proposed Fiscal Year 2021 budget for the Agency includes \$1,200,000 from the Securities and Banking Fund to support the Opportunity Accounts program. The funds will support continuation of the existing 130 accounts and can support matching on an increased match basis for approximately 130 new Opportunity Accounts.

Public Bank: The Committee understands the significance of continuing to improve the banking market in the District. Not only to ensure that banks are operating with fidelity, but for the purpose of identifying unconventional ways to achieve common goals. To that end, the Committee is interested in DISB's study and recommendations for establishing a public bank in the District. A public bank is: "A bank owned by the people through their representative government and operated in the public interest."⁸⁵ They are different from private banks in that for private banks they owned primarily by shareholders while for public banks, they are owned primarily by a local or federal government for the public's interest.⁸⁶

Through this study, the Committee hopes to evaluate the conclusions and compare options based on the economic, social, and environmental goals. In Fiscal Year 2018, the Committee engaged local bank representatives to discuss the viability of a public bank in the District. During the budget oversight hearing in 2018, Commissioner Taylor acknowledged that the Feasibility Study was underway and would be completed in Fiscal Year 2019. During the Agency's performance oversight hearing in 2020, Commissioner Taylor stated the study was under review by the Executive. The Committee looks forward to the results and recommendations of the study.

1. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Fiscal Year 2021 operating budget for the Department of Insurance, Securities, and Banking, as proposed by the Mayor, with the following modifications:

⁸⁵ HUB Public Banking, *Public Banks: The Basics*, <https://hubpublicbanking.org/what-is-a-public-bank/public-banks-the-basics/> (last visited April 13, 2019).

⁸⁶ *Id.*

1. *Recognize* \$62,169.53 in personnel costs from current Program 1000 (Agency Management), Activity 1040 (Office of Information, Technology, and Support), in the following amounts: CSG 11 (Regular Pay-Cont Full Time) by \$50,950.28 and CSG 14 (Fringe Benefits-Current Personnel) by \$11,219.25.
2. *Recognize* \$162,644.85 in personnel costs from current Program 4000 (Enforcement), Activity 4050 (Enforcement), in the following amounts: CSG 11 (Regular Pay-Cont Full Time) by \$133,293.60 and CSG 14 (Fringe Benefits-Current Personnel) by \$29,351.25.
3. *Recognize* \$53,128.96 in personnel costs from current Program 5000 (Banking), Activity 5070 (Market Services), in the following amounts: CSG 11 (Regular Pay-Cont Full Time) by \$43,541.19 and CSG 14 (Fringe Benefits-Current Personnel) by \$9,587.77.
4. *Recognize* \$53,128.96 in personnel costs from current Program 5000 (Banking), Activity 5070 (Market Services), in the following amounts: CSG 11 (Regular Pay-Cont Full Time) by \$43,541.19 and CSG 14 (Fringe Benefits-Current Personnel) by \$9,587.77.
5. *Recognize* \$53,128.96 in personnel costs from current Program 9000 (Compliance Analysis), Activity 9020 (Market Research Analysis), in the following amounts: CSG 11 (Regular Pay-Cont Full Time) by \$43,541.19 and CSG 14 (Fringe Benefits-Current Personnel) by \$9,587.77.

b. Fiscal Year 2021 Policy Recommendations

For Fiscal Year 2021, the Committee recommends the following:

1. DISB should identify ways to engage District based businesses to participate in its DC BizCAP program.
2. DISB should finalize and release the report for the Public Bank Feasibility Study.

K. DEPARTMENT OF FOR-HIRE VEHICLES (TC0)

2. COMMITTEE ANALYSIS AND COMMENTS

b. Agency Mission and Overview

The mission of the Department of For-Hire Vehicles (“DFHV” or “Agency”) is to protect the public interest by regulating the vehicle-for-hire industry to allow residents and visitors of the District of Columbia to have safe, affordable, and accessible transportation options. DFHV provides licensing, adjudication, enforcement, and client services for

approximately 100,000 drivers, over 60 taxicabs companies/associations, and over 20 limousine companies, as well as residents and visitors who use public and private vehicle-for-hire services in the District.⁸⁷

DFHV has three objectives for Fiscal Year 2021: 1) To ensure that passengers have safe and excellent riding experiences; 2) To ensure the economic viability of, and expand economic opportunities for, the for-hire vehicle industry; and 3) To create and maintain a highly efficient, transparent, and responsive District government.⁸⁸

c. Mayor's Proposed Fiscal Year 2021 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed Fiscal Year 2021 gross budget for DFHV is \$17,827,643, which represents a \$2,121,736, or 10.6% decrease from the Agency's Fiscal Year 2020 approved gross budget of \$19,949,379. The budget is comprised of \$5,889,397 in Local Funds, \$10,922,246 in Special Purpose Revenue Funds, and \$1,016,000 in Intra-District Funds. There are no federal resources identified in the Mayor's Fiscal Year 2021 proposed budget for DISB. Finally, the Mayor's Fiscal Year 2021 proposed budget for DFHV includes 70 FTEs, which is the same number of FTEs in the approved Fiscal Year 2020 budget for the Agency.⁸⁹

Local Funds: The Mayor's Fiscal Year 2021 proposed Local Funds budget for DFHV is \$5,889,397, representing a decrease of \$6,000, or 0.1% from the Agency's Fiscal Year 2020 approved budget of \$5,895,000. The Agency's Local Funds budget would not support any FTEs because DFHV's staff is funded entirely by Special Purpose Revenue funds.⁹⁰

Special Purpose Revenue Funds: The Mayor's Fiscal Year 2021 proposed Special Purpose Revenue Funds budget for DFHV is \$10,922,246, which represents a decrease of \$2,302,000, or 17.4% from its Fiscal Year 2020 approved Special Purpose Revenue budget of \$13,224,000. This budget supports 70 FTEs, which represents no change to FTEs from the Fiscal Year 2020 approved level.⁹¹

Federal Resources: There are no federal resources identified in the Mayor's Fiscal Year 2021 proposed budget for DFHV.

Intra-District Funds: The Mayor's Fiscal 2021 proposed Intra-District Fund budget for DFHV is \$1,016,000, which represents an increase of \$186,000, or 22.4% over the Agency's Fiscal Year 2020 approved Intra-District budget.

⁸⁷ FY 2021 Proposed Budget and Financial Plan, Vol. 4, Department of For-Hire Vehicles, F-39 (2020).

⁸⁸ *Id.* at F-45.

⁸⁹ *Id.* at F-39.

⁹⁰ *Id.* at F-39, F-44.

⁹¹ *Id.*

Committee Analysis and Comments

The Mayor's Fiscal Year 2021 proposed budget for DFHV reflects no change from the Fiscal Year 2020 approved recurring budget. The Agency's proposed Special Purpose Revenue budget for Fiscal Year 2021 includes an increase of \$626,280 in personal services across multiple program to cover step and salary increases and other position changes. The Special Purposes Revenue budget also includes an adjustment of \$14,200 in the Agency Management program to enable DFHV to procure adequate supplies and materials. The proposed Fiscal Year 2021 budget reflects an increase of \$186,000 in Intra-District funds for the Agency's Operations program. This increase will support a Memorandum of Understanding with the Mayor's Office of Veterans' Affairs for the Veterans' Transportation Services project.⁹²

Agency Performance: DFHV has established three objectives for Fiscal Year 2021: 1) Ensure passengers have safe and excellent riding experiences; 2) Ensure economic viability and expand economic opportunities for the vehicle-for-hire industry; and 3) Create and maintain a highly efficient, transparent, and responsive District government.

Ensuring passenger safety and excellent riding experience: DFHV's Field Compliance and Enforcement program provides enforcement, compliance, and oversight of public vehicle-for-hire companies; performs field inspections and issues notices of infractions to violators; conducts training courses for license applicants; and provides refresher courses for existing license holders to ensure behavioral standards and adherence to District law and DFHV regulations.

Director Do explained in his testimony during the Agency's Budget Oversight Hearing that DFHV made a significant investment during Fiscal Year 2020 in software systems, to review and analyze trip data, including traffic patterns and usage trends and data from Transportation Network Companies. This data informs enforcement, curb management, and operator compliance in order to help ensure public safety and inform program development.⁹³

The Complaints and Hearings and Conflict Resolution divisions of the Agency's Operations program also serve to promote passenger safety and good riding experience. The Complaints division documents complaints, investigates the validity of information, conducts resolution conferences to determine effective remedies, and prepares notices of infractions for unresolved complaints. The Hearings and Conflict Resolution division conducts hearings, adjudications, appeals, and any form of conflict resolution, including mediation. During his Budget Oversight Hearing testimony, Director Do stated that the Agency has resolved 541 consumer complaint submissions during the current fiscal year.⁹⁴

⁹² *Id.* at F-44.

⁹³ Budget Oversight Hearing before the D.C. Council Comm. on Bus., Council Period 23 5 (May 27, 2020) (written testimony of Director David Do – Department of For-Hire Vehicles) [hereinafter Testimony of Director Do].

⁹⁴ *Id.*

In response to the COVID-19 public health emergency, DFHV continued its focus on passenger and driver safety by requiring all drivers and riders to wear masks and mandating that high-touch areas of vehicles are cleaned and disinfected after each ride.⁹⁵

Ensuring economic viability and expanding economic opportunities for the vehicle-for-hire industry: DFHV works to expand economic opportunities for the for-hire industry by establishing Transportation Pilots and Programs. Additionally, the Agency provides grant opportunities, management, and oversight to further develop the for-hire industry and encourage innovation. DFHV provides grants through its Grant division. DFHV’s Transportation Pilots and Programs also serve to improve transportation equity in the District.

In response to the COVID-19 public health emergency DFHV has expanded or repurposed these programs to support the economic viability of the industry, and to provide residents with increased transportation options. Director Do testified that “[c]ompanies that partner with DFHV on grant programs enthusiastically responded to [DFHV’s] calls to adapt services” to respond to the public health emergency.

Transportation Pilots and Programs include Transport DC, Taxi-2-Rail (“T2R”), and DC Neighborhood Connect. From its inception in Fiscal Year 2015, the Transport DC program has been a success in the District. Transport DC provides shared-rides, and door to door service for individuals who have disabilities or would have otherwise relied on MetroAccess.⁹⁶ Transport DC provides unrestricted rides for the first 15 days of the month and for employment and medical services for the remainder of the month.⁹⁷ Transport DC passengers pay \$5 each one-way ride and they may pay by cash, credit card, or debit card.⁹⁸ During the public health emergency Transport DC has been expanded to provide grocery store trips during the normally restricted travel days.⁹⁹ This expansion also benefited drivers because DFHV increased the drivers’ reimbursement rate under the program by \$5 per driver and an additional \$10 for drivers who provide rides for wheelchair users.¹⁰⁰

DFHV will be providing \$9.5 million in total grant funding through Transport DC during the current fiscal year, with \$7.7 million already awarded.¹⁰¹ The Agency’s proposed budget for Fiscal Year 2021 includes \$5.9 million in Local Funds for the Transport DC Program, which will maintain the level of support for the program from Fiscal Year 2020.¹⁰²

In addition to expansions to the Transport DC Program, the Agency expanded the T2R program from its East of the River service to citywide transportation. The expansion provides travel to grocery stores, pharmacies, and medical providers and transportation for

⁹⁵ *Id.*

⁹⁶ Transport DC, DFHV, available at <https://dfhv.dc.gov/service/transport-dc> (last visited April 12, 2019).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Testimony of Director Do, *supra* note 7 at 3.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 4.

¹⁰² *Id.* at 6.

essential workers. DFHV also worked with the Office of the State Superintendent of Education to repurpose the DC Neighborhood Connect program to provide trips to second and third shift hospital workers for a \$3 flat fare. These programs provide support for the industry as well as to passengers.

Finally, DFHV worked to support the for-hire industry by expanding opportunities for drivers to engage in non-passenger transport during the public health crisis. DFHV posted an Administrative Issuance to allow taxi drivers to sign up with commercial food delivery companies and facilitated a partnership with the Department of Health to provide grocery delivery to seniors through the Commodity Supplemental Program. DFHV also supported efforts by the Department of Aging and Community Living to convert their community meals program to a home delivery model supported by the for-hire industry.

2. COMMITTEE RECOMMENDATIONS

Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Fiscal Year 2021 operating budget for the Department of For-Hire Vehicles, as proposed by the Mayor.

L. DESTINATION DC

3. COMMITTEE ANALYSIS AND COMMENTS

b. Agency Mission and Overview

Destination DC (DDC) is a private, non-profit organization that serves as a tourism, promotional, and marketing arm for the District via a five-year contract with Events DC. DDC works to increase economic development for the city and maximize revenues for Events DC and the District government by increasing the number of overnight visitors. Formerly the Washington, DC Convention & Tourism Corporation, the entity was renamed Destination DC in 2008 to reflect the organization's increased emphasis on the city's unique assets. DDC is funded by a percentage of the city's hotel occupancy tax, along with membership dues and co-operative marketing fees. DDC's membership comprises over 850 businesses, including hotels, restaurants, attractions, museums, and cultural organizations. The entity operates under a Board of Directors that presents monthly to Events DC.

2. Fiscal Year 2021 Operating Budget

Destination DC is principally funded through a contract via the Convention Center Marketing Fund managed by Events DC, which is not addressed in this report.¹⁰³ Of note

¹⁰³ D.C. Official Code 10-1202.08(a)(c) directs to the Marketing Fund no less than 17.4% collected from the tax imposed by 47-2002.02(1) and 47-2202.01(1) on a monthly as well as yearly basis. Committee reports in

is the \$3,000,000 local funds adjusted annually for inflation included in the Convention Center Transfer – Dedicated Taxes up until the Fiscal Year 2018 budget year. In Fiscal Year 2018, a new budget subtitle was included at the Committee of the Whole which adds a new dedicated tax of 0.3 percent on gross receipts from hospitality charges, including hotel rooms, and inns, and dedicates it to Events DC for transferring to Destination DC to market the District of Columbia as a destination. This is in lieu of the former \$3 million transfer and is dependent on hotel tax receipts.

Destination DC was hit particularly hard by COVID-19 and the declaration of the public health emergency. According to the organization, “Meetings and conventions have been devastated by COVID-19.” To date, DDC notes a \$198,000,000 combined negative economic impact. The uncertainty around producing events until a vaccine is found will further reduce consumer confidence and result in more devastating loss for the hospitality community. The phased reopening of the city with mass gathering of over 250 people banned until we have a vaccine will have far-reaching implications on meeting and convention business in the city and specifically to the Walter E. Washington Convention Center.

Due to the public health emergency, the organization has had to make deep cuts to their proposed budget. The organization is anticipating revenue budget of \$14.2M with expense budget of \$21M in FY2021. While approved FY2020 budget was \$25.3M, this budget was revised in March and again in May after COVID-19 impacted the Hospitality industry. The revenue budget was reduced to \$13.7M while expense budget was reduced to \$18.9M.¹⁰⁴

Based on the OCFO revenue estimate issued on April 24, 2020, Destination DC would receive approximately \$12M in hotel taxes in FY2021. Compared to actual receipt of \$19.9M in FY2019, this estimate is a reduction of \$7.9M or 40%. Compared to the revised receipt of \$11M for FY2020, the estimate for FY2021 is an increase of \$1M or 9%.

Committee Analysis and Comments

Destination DC reports it continues to promote Washington, DC with a goal of attracting visitors who will generate a positive economic impact for the city. Value is provided to a wide variety of visitors coming into the city each year: leisure visitors, both domestic and international, convention attendees, school groups, and business visitors. The District has experienced growth in total visitation every year since 2006. Destination DC continues to work to attract visitors from around the country and the world.

Unfortunately, COVID-19 has forced the organization to make some difficult budget decisions including significant staff reductions. As noted, in their budget oversight hearing responses, “Destination DC took hard measures on payroll and benefits starting

prior years have included standard format budget charts that simply had “0s” in each line item. The Fiscal Year 2020 report omitted these charts because DDC is not included in the budget books. This report follows this approach.

¹⁰⁴ This information was provided to the Committee as part of their responses to preliminary budget oversight hearing questions in an attachment entitled, “FY21 Budget Questions – Destination DC Final.”

March 30, 2020. All 88 active positions worked on a reduced 4-day work schedule for 4 weeks, starting March 30, 2020. Effective April 27, 2020, 54 positions were put on a full furlough plan for a 10-week period while the remaining staff are working on a reduction in salary (RIS) of 40%.”¹⁰⁵ The Committee recognizes the difficulty in advancing organizational priorities with such deep cuts.

Marketing and communications within the organization will have to be reimaged in light of COVID-19. Recovery from COVID-19 in the tourism sector is dependent on DDC’s ability to be competitive with advertising. The Committee underscores the importance of revisioning how to promote the city in the new normal that emerges post-health emergency. Destination DC (DDC) reports continuing to operate advertising campaigns under the DC Cool branding.

As the organization continues to use social media to highlight one-of-a-kind experiences through initiatives such as #MyDCcool, which allows visitors to share their DC experiences across platforms, or #DCtogether, an initiative that promotes supporting DC-based businesses, the Committee encourages DDC to find innovative ways to highlight the story of DC Natives, Go-Go music, history and culture.

In FY2020, DDC launched its Connected Campus initiative. The original intent was to highlight the venues immediately surrounding the Walter E. Washington Convention Center to expand meeting space design, offer unique exhibitor buy outs and showcase the local flare of Washington, DC. The Committee recognizes how such an initiative remains relevant now more than ever to enhance our social distancing offerings. The Committee encourages the organization to continue to leverage opportunities to inspire convention trade coverage, including the Connected Capital sectors, Connected Campus and position these two initiatives as the new value in DC.

The Committee accepts DDC’s marketing strategy pivot to focus on recovery from COVID-19 to focus on targeting the regional and drive markets from which consumers are most likely to visit DC. The Committee is however, deeply concerned with the outlook for partnerships and alliances and for DDC’s ability to support businesses given the deep cuts to their marketing budgets. The organization reported, “Partnerships help Destination DC raise money and offset expenses. Destination DC offers partners exposure in exchange for access to support DDC’s sales and marketing efforts and support the partners’ work to bring guests and positive exposure to Washington, DC.

For FY2020, many of these partnerships were significantly reduced or the events and programs canceled.”¹⁰⁶

Comparisons are difficult as cities define visitors differently, however the District ranked 15th for released visitor counts in 2017 with 22.8 million visitors. The Committee

¹⁰⁵ “FY21 Budge Questions,” page 7.

¹⁰⁶ In a pre-pandemic year, Destination DC would have budgeted to receive \$1 million in-kind and \$350,000 cash from these partnerships. The actuals for FY2020 and FY2021 are projected to be half of those projections, or \$500,000 in-kind and \$175,000 cash.

looks forward to Destination DC’s proposals for how to increase the District’s visitor count above smaller cities such as Denver, San Diego, and Minneapolis.

b. Fiscal Year 2021-2026 Capital Budget

The Mayor has no proposed Fiscal Year 2021- Fiscal Year 2026 capital budget for DDC.

4. Committee Recommendations

d. Fiscal Year 2021 Operating Budget Recommendations

The Committee recommends adoption of the Mayor’s Fiscal Year 2020 budget for Destination DC in the amount of the dedicated tax of 0.3 percent on gross receipts from hospitality charges, including hotel rooms, and inns, and dedicated to the Washington Convention and Sports Authority for transferring to Destination DC.

e. Fiscal Year 2021 Capital Budget Recommendations

The Committee recommends adoption of the Mayor’s Fiscal Year 2021 – Fiscal year 2026 capital budget for Destination DC of \$0.

f. Policy Recommendations

1. As the organization considers what constitutes a strong value message and how to set DC apart from other markets, the Committee recommends prioritizing Go-Go in the city’s free things to do.
2. The Committee strongly recommends better, more consistent utilization of certified business enterprises.

III. TRANSFERS TO OTHER COMMITTEES

In addition to the changes recommended for agencies within its jurisdiction, the Committee has worked with other committees to identify funding needs and recommends transfers to support programs in those other committees as described below.

CLICK HERE TO ENTER TEXT.

The Committee recommends transferring the following amounts to the Committee

...

- Amount in one-time/recurring funds to AGENCY for . . .

CLICK HERE TO ENTER TEXT.

The Committee recommends transferring the following amounts to the Committee

...

- Amount in one-time/recurring funds to AGENCY for . . .

IV. BUDGET SUPPORT ACT RECOMMENDATIONS

On [Click here to enter a date.](#), Chairman Mendelson introduced, on behalf of the Mayor, the “Fiscal Year 2021 Budget Support Act of 2020” (Bill 23-[Click here to enter text.](#)). The bill contains XX subtitles for which the Committee has provided comments. The Committee also recommends the addition of XX new subtitles.

A. RECOMMENDATIONS ON MAYOR’S PROPOSED SUBTITLES

The Committee provides comments on the following subtitles of the “Fiscal Year 2021 Budget Support Act of 2020”:

1. TITLE II, SUBTITLE A. CREATIVE AND OPEN SPACE MODERNIZATION TAX REBATE
2. TITLE II, SUBTITLE B. ECONOMIC OPPORTUNITY AND CREATIVITY GRANTS
3. TITLE II, SUBTITLE C. OPPORTUNITY ZONE TAX BENEFITS
4. TITLE II, SUBTITLE D. STREETScape BUSINESS DEVELOPMENT RELIEF
5. TITLE II, SUBTITLE E. BUDGET OF THE PUBLIC ACCESS CORPORATION
6. TITLE II, SUBTITLE F. ECONOMIC & COMMUNITY

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3. TITLE II, SUBTITLE C. OPPORTUNITY ZONE TAX BENEFITS
4. TITLE II, SUBTITLE D. STREETScape BUSINESS DEVELOPMENT RELIEF
5. TITLE II, SUBTITLE E. BUDGET OF THE PUBLIC ACCESS CORPORATION
6. TITLE II, SUBTITLE F. ECONOMIC & COMMUNITY DEVELOPMENT GRANTS IN WARDS 5, 7, 8
7. TITLE II, SUBTITLE G. TAX ABATEMENTS FOR AFFORDABLE HOUSING IN HIGH-NEED AREAS
8. TITLE II, SUBTITLE I. PROPERTY DISPOSITION AND DEVELOPMENT INCENTIVE ADMINISTRATIVE FEES
9. TITLE II, SUBTITLE J. SPORTS WAGERING BUSINESS DEVELOPMENT PROGRAM
10. TITLE IV, SUBTITLE J. WILKINSON SCHOOL DISPOSITION PROCESS
11. TITLE V, SUBTITLE B. MEDICAL MARIJUANA PROGRAM ADMINISTRATION
12. TITLE VI, SUBTITLE A. OPPORTUNITY ACCOUNTS
13. TITLE VI, SUBTITLE C. GAMES OF SKILL MACHINES
14. TITLE VI, SUBTITLE F. ALCOHOLIC BEVERAGE SALES AND DELIVERY
15. TITLE VII, SUBTITLE A. PERSONAL PROPERTY TAX

The legislative language is included in Appendix A.

1. TITLE II, SUBTITLE A. CREATIVE AND OPEN SPACE MODERNIZATION TAX REBATE

a. Purpose, Effect, and Impact on Existing Law

This subtitle expands DMPED’s Local Funds grant-making authority to include paying up to \$3 million in tax rebates for Qualified HighTech Companies that make qualified improvements to real property that it occupies.

b. Committee Reasoning

Under the program, a company in the District can qualify for a tax rebate of up to \$1,000,000 per year (for a maximum of five years) if the company signs a lease of at least 50,000 square feet and provides a public benefit that has a material, positive impact on the District, such as providing low-income residents with reduced-price products or services and providing economic opportunities, training, or jobs for District residents. Only one entity has received this incentive in FY18, 19, and 20 to date. The Committee believes that there must be a comprehensive assessment of this incentive program outside of the budget process. It is unclear, at this juncture, whether this program truly enhances equitable

economic development in the District or provides existing entities with unnecessary tax benefits. Therefore, the Committee recommends striking this subtitle and encourages a wholesale review of this program before the agency accepts additional applicants. Funding for one entity to receive the Creative and Open Space Modernization tax rebate is included in Subtitle (II)(F) – Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Entities Operating in Wards 5, 7, or 8 Amendment Act of 2020.

c. Section-by-Section Analysis

Sec. 2001. States the short title.

Sec. 2002. Amends D.C. Official Code § § 1-328.04(a) to authorize DMPED to issue payments to provide real property tax rebates allowed under DC Official Code § 47-4665.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2001. Short title.

This subtitle may be cited as the “Creative and Open Space Modernization Tax Rebate Amendment Act of 2020”.

Sec. 2002. Section 2032(d) of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 12, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04(d)), is amended by adding a new paragraph (1A) to read as follows:

“(1A) Funds to provide real property tax rebates under D.C. Official Code § 47-4665, in an amount not to exceed \$3 million in a fiscal year.”.

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

2. TITLE II, SUBTITLE B. ECONOMIC OPPORTUNITY AND CREATIVITY GRANTS

a. Purpose, Effect, and Impact on Existing Law

This subtitle expands DMPED’s grant- making authority to include issuing grants to support programs, projects, and initiatives that support the District’s economic development goals and activities.

b. Committee Reasoning

The Committee understands there is a need for the agency to have the flexibility associated with grantmaking and has expanded the Deputy Mayor’s grantmaking authority in past fiscal years, including an authority to issue grants for projects related to the redevelopment of the St. Elizabeths East Campus, the Walter Reed Redevelopment Site, and for projects in Historic Anacostia. This subtitle expands the agency’s authority to issue grants to support programs, projects, and initiatives that support the District’s economic development goals and activities. The Committee, consistently seeks opportunities to enhance equitable economic development, and believe that the scope of this grantmaking authority should be contoured to this end. Therefore, the Committee recommends striking this subtitle, and expanding DMPED’s grantmaking authority in Subtitle (II)(F) – Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Entities Operating in Wards 5, 7, or 8 Amendment Act of 2020.

c. Section-by-Section Analysis

- Sec. 2011. States the short title.
- Sec. 2002. Amends D.C. Official Code § § 1-328.04(a) to authorize DMPED to issue grants in support of programs, projects, and initiatives that are consistent with and in furtherance of the economic development goals or activities of the District.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2011. Short title.

This subtitle may be cited as the “Economic Opportunity and Creativity Grants Authority Amendment Act of 2020”.

Sec. 2012. Section 2032(a) of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 12, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04(a)), is amended as follows:

(a) Paragraph (5) is amended by striking the period at the end and inserting a semicolon in its place.

(b) Paragraph (6) is amended by striking the word “and”.

(c) Paragraph (7) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(d) A new paragraph (8) is added to read as follows:

“(8) Funds in support of programs, projects, and initiatives that are consistent with and in furtherance of the economic development goals or activities of the District.”.

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

3. TITLE II, SUBTITLE C. OPPORTUNITY ZONE TAX BENEFITS

a. Purpose, Effect, and Impact on Existing Law

This subtitle decouples the capital gains deferral for purposes of District income taxes unless the investment meets certain criteria. These criteria include a requirement that the Qualified Opportunity Fund (“QOF”) is certified by the Mayor; that the QOF has invested at least the value of the taxpayer’s QOF investment in a Qualified Opportunity Zone located in the District; and that the QOF submits IRS forms 8996 and 8997 to the Office of Tax and Revenue. In order to be certified by the Mayor, the QOF must submit documentation showing the QOF has invested in a business or property that has received a grant, loan, or tax incentive from the District; has invested in an economic development project managed, owned, or disposed of by the District; has received support of the Advisory Neighborhood Commission where the investment is located; or that has received at least a score of 75 on the Urban Institute Opportunity Zone Community Impact Assessment Tool. The subtitle also requires that the Office of Tax and Revenue collect data related to taxpayers claiming Opportunity Zone tax benefits and provide it in anonymized format to DMPED.

b. Committee Reasoning

The Committee recognizes that this subtitle enhances the criteria for Opportunity Zone investments by requiring support of the Advisory Neighborhood Commission where the investment is located and a score of at least 75 on the Urban Institute Opportunity Zone

Community Impact Assessment Tool. This criteria is useful to ensuring community feedback on investments into Qualified Opportunity Zones, but additional efforts to achieving equitable economic development are needed. Therefore, the Committee has recommended that the criteria require investments are scored by the District’s racial equity tool and received a positive assessment.

c. Section-by-Section Analysis

Sec. 2021. States the short title.

Sec. 2022. Amends D.C. Official Code § 47-1801.04 to require the meaning of terms to have the same meaning as the term is defined in section 13823 of the Internal Revenue Code of 1986 and amends D.C. Official Code § 47-1803.03(a) to decouples the capital gains deferral for purposes of District income taxes unless the investment meets certain criteria; outlines the criteria; and requires that the Office of Tax and Revenue collect data related to taxpayers claiming Opportunity Zone tax benefits and provide it in anonymized format to DMPED.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2021. Short title.

This subtitle may be cited as the “Aligning Opportunity Zone Tax Benefits with DC Community Priorities Amendment Act of 2020”.

Sec. 2022. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Chapter 18 is amended as follows:

(1) Section 47-1801.04 is amended by adding new paragraphs (39A), (39B), (39C), and (39D) to read as follows:

“(39A) “Qualified Opportunity Fund” shall have the same meaning as the term is defined in section 13823 of the Internal Revenue Code of 1986, approved December 22, 2017 (131 Stat. 2184; 26 U.S.C. § 1400Z-2) (“section 13823”).

“(39B) “Qualified Opportunity Zone” shall have the same meaning as the term is defined in section 13823 of the Internal Revenue Code of 1986.

“(39C) “Qualified Opportunity Zone Business” shall have the same meaning as the term is defined in section 13823 of the Internal Revenue Code of 1986.

“(39D) “Qualified Opportunity Zone Business property” shall have the same meaning as the term is defined in section 13823 of the Internal Revenue Code of 1986.”.

(2) Section 47-1803.03(a) is amended by adding a new paragraph (20) to read as follows:

“(20) Capital Gains. --

“(A) Deferral of a capital gains tax payment for investing in a Qualified Opportunity Fund (“QOF”) shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

“(B) Reduction of capital gains tax liability through a 10% step-up in basis, if invested in a QOF for 5 years prior to December 31, 2026, and an additional 5% step-up in basis, if invested in a QOF for 7 years prior to December 31, 2026, shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

“(C) Abatement of capital gains tax on an investment of capital gains in a QOF for at least 10 years before December 31, 2047, shall be realized only if the taxpayer invests in a QOF that meets the criteria set forth in subparagraph (D) of this paragraph;

“(D) To receive the benefits described in subparagraphs (A), (B), and (C) of this paragraph, the taxpayer must:

“(i) Invest in a QOF that:

“(I) Is certified by the Mayor as an eligible QOF pursuant to subparagraph (E) of this paragraph;

“(II) Has invested at least the value of the taxpayer’s investment in the QOF in a Qualified Opportunity Zone in the District; and

“(III) Has submitted its IRS Form 8996 to the Office of Tax Revenue for the tax year in which the taxpayer is seeking the benefits described in subparagraphs (A), (B), and (C) of this paragraph; and

“(ii) Submit an IRS Form 8997 to the Office of Tax Revenue for the tax year in which the taxpayer is seeking the benefits described in subparagraphs (A), (B), and (C) of this paragraph.

“(E) To be certified by the Mayor as an eligible QOF, a QOF shall submit to the Mayor documentation showing:

“(i) That some or all of its investments in Qualified Opportunity Zone Businesses and Qualified Opportunity Zone Business property are in businesses or property that:

“(I) Have been selected by the District government for a grant, loan, tax incentive, tax abatement, or other benefit or incentive intended to promote economic or community development in the District;

“(II) Have been selected by the Office of the Deputy Mayor for Planning and Economic Development to manage the redevelopment of a

property, with respect to a business, or that are owned or disposed of by the District government, with respect to a property;

“(III) Have an unconditioned resolution of support from the Advisory Neighborhood Commission in which the business or property is located or a conditional resolution of support from the Advisory Neighborhood Commission in which the business or property is located and the Mayor determines that each of the conditions of the resolution have been met; or

“(IV) Are located in the District and have been scored by the QOF using the Urban Institute’s Opportunity Zone Community Impact Assessment Tool, or other assessment tool approved by the Mayor, and received a score of 75 (or its equivalent) or greater;

“(V) Have been scored by the District’s racial equity tool and received a positive assessment authorized in Racial Equity Achieves Results Act, as introduced on _____ (Bill 23-xxx)

“(ii) That the dollar amount of the investments that the QOF has made in Qualified Opportunity Zone Businesses and Qualified Opportunity Zone Business property meet the standards set forth in sub-subparagraph (i) of this subparagraph.”.

“(d) Subject to authorization in an approved budget and financial plan, funds in the special fund shall be continually available for the purposes set forth in subsection (b) of this section without regard to fiscal year limitation.

“(e) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this section.

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

4. TITLE II, SUBTITLE D. STREETSCAPE BUSINESS DEVELOPMENT RELIEF FUND AMENDMENT ACT OF 2020.

a. Purpose, Effect, and Impact on Existing Law

The Streetscape Business Development Relief Fund (Fund) and Local Business Development (DSLBD). DSLBD is authorized to issue loans and grants out of the Fund to businesses whose operations are disrupted by District streetscape construction, rehabilitation projects, and other capital infrastructure projects and who are located adjacent to, or within, the project area.

This subtitle expands the eligible recipients of loans and grants to include District Main Streets organizations.

b. Committee Reasoning

The Committee supports this subtitle, however, in order to ensure transparency, the Committee has added a reporting requirement for the Department to track and report back specific data around grants, loans, and sub-grants. Including District Main Streets organizations as eligible recipients of grants and loans does not have a cost. Total grants and loans that can be made will be limited to resources available in the Fund and as the Department receives loan repayments, the Department has budget authority to spend as those repayments are realized.

c. Section-by-Section Analysis

Sec. 2031. States the short title.

Sec. 2032. Inserts Main Streets organizations as eligible loan or grant recipients. This section also requires the Department to submit an annual report detailing specific loan and grant data.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2031. Short title.

This subtitle may be cited as the “Streetscape Business Development Relief Expansion Amendment Act of 2020”.

Sec. 2032. Section 603(c) of the Streetscape Fund Amendment Act of 2010, effective April 8, 2011 (D.C. Law 18-370; D.C. Official Code § 1-325.191(c)), is amended as follows:

(a) Strike the phrase “to any individual” and insert the phrase “to a District Main Streets Program organization or individual” in its place.

(b) Strike the phrase “business inside or adjoining” and insert the phrase “business within the project boundaries of, or adjoining” in its place.

(c) Strike the phrase “grant, a retail business” and insert the phrase “grant, a District Main Streets Program organization or individual or entity operating a retail business” in its place.

(d) Strike the phrase “submitted by the retail” and insert the phrase “submitted by the District Main Street Program organization or individual or entity operating a retail” in its place.

(e) A new paragraph (d) is added to read as follows:

“(d) Within 180 days of the end of the Fiscal Year 2020, and every year thereafter, the Department shall submit a report detailing all loans, grants, and sub-grants including information on the dollar amount disbursed, recipients of financial assistance, and whether the recipient is a certified business enterprise.”

5. TITLE II, SUBTITLE E. BUDGET OF THE PUBLIC ACCESS CORPORATION

a. Purpose, Effect, and Impact on Existing Law

Subtitle II.E, the Budget of the Public Access Corporation Amendment Act of 2020 eliminates the requirement for the Public Access Corporation to submit its annual budget to the Mayor for inclusion in the Mayor’s budget submission to the Council.

b. Committee Reasoning

The Public Access Corporation, pursuant to D.C. Official Code § 34-1253.02, requires that the bylaws of the Public Access Corporation include a requirement that the Public Access Corporation submit to the Mayor the budget for the Corporation for its next fiscal years, approved by the Corporation’s board, for inclusion in the annual budget that the Mayor is required to submit to the Council.

The Public Access Corporation budget is independent from the District of Columbia Government and is not included in the fiscal year 2021 budget. The Public Access Corporation is, however, a District of Columbia Public, Educational, and Governmental (PEG) Entity and receives disbursements of PEG fees from the District. The District of Columbia Office of Cable Television, Film, Music and Entertainment (OCTFME) is required by the terms of its cable television franchise agreements with the District of Columbia cable providers to receive, allocate, and transfer funds to the PEG Entities. The cable providers pay the sum of 1% of their Gross Revenue to OCTFME as capital support for the PEG Entities, and OCTFME is required to distribute these funds to the PEG Entities. PEG entities include the Public Access Corporation, UDC Television, and OCTFME.

c. Section-by-Section Analysis

Sec. 2041. States the short title.

Sec. 2042. Repeals the requirement that the Public Access Corporation submit to the Mayor its budget for the Corporation’s next fiscal year for inclusion in the Mayor’s proposed budget.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2041. Short title.

This subtitle may be cited as the “Budget of the Public Access Corporation Amendment Act of 2020”.

Sec. 2042. Section 302(k) of the Cable Television Communications Act of 1981, effective October 9, 2002 (D.C. Law 14-193; D.C. Official Code § 34-1253.02(k)), is repealed.

6. TITLE II, SUBTITLE F. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS IN WARDS 5, 7, AND

a. Purpose, Effect, and Impact on Existing Law

This subtitle expands DMPED’s grant- making authority to include issuing grants to organizations that operate in the District’s Wards 5, 7, and 8 to support economic or community development in underserved areas. DMPED exempts any grants issued under this subtitle’s authority from competitive award requirements.

b. Committee Reasoning

This subtitle expands the agency’s authority to issue grants to organizations that operate in the District’s Wards 5, 7, and 8 to support economic or community development in underserved areas. The Committee appreciates the effort to target businesses in Wards 5, 7, and 8 in the wake of the public health emergency and has adjusted this subtitle to enhance its ability to deliver equitable economic development to disadvantaged businesses. This subtitle was also adjusted to provide funding to one applicant for tax rebates for the Creative and Open Space Modernization Act with the remaining funds for equity impact enterprises in Wards, 5, 7, and 8. Wards 5, 7, and 8 have the three highest death tolls in the District as a result of COVID-19.¹⁰⁷ Due to the disproportionate impact of the COVID-19, disadvantaged businesses in these Wards need additional support. The Committee recommends accepting this subtitle as adjusted by the Committee for inclusion.

c. Section-by-Section Analysis

- | | |
|------------|--|
| Sec. 2051. | States the short title. |
| Sec. 2052. | Amends D.C. Official Code § 1-328.04(d) to authorize DMPED to issue grants to “Equity Impact Enterprises” operating in Wards 5, 7, or 8 for the purpose of increasing economic or community development in an underserved area of the District |
| Sec. XXX. | Amends D.C. Official Code § 47-4665(b) to make the Creative and Open Space Modernization tax rebate permissive |
| Sec. XXX. | Amends D.C. Official Code § 47-4665(f) to provide funding for a Creative and Open Space Modernization tax rebate applicant in Fiscal Year 2021 |

d. Legislative Recommendations for the Committee of the Whole

¹⁰⁷ Coronavirus Data, Executive Office of the Mayor at <https://coronavirus.dc.gov/page/coronavirus-data>

Sec. 2051. Short title.

This subtitle may be cited as the “Deputy Mayor for Planning and Economic Development Limited Grant Making Authority for Entities Operating in Wards 5, 7, or 8 Amendment Act of 2020”.

Sec. 2052. Section 2032(d) of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 12, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04(d)), is amended as follows:

(a) Paragraph (2) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (3) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (4) is added to read as follows:

“(4) Funds to Equity Impact Enterprises operating in Wards 5, 7, or 8 for the purpose of increasing economic or community development in an underserved area of the District.”.

“(5) “Equity Impact Enterprise” means a business that is:

(A) A Resident-owned business pursuant to section 2332 of the CBE Act;

Small, pursuant to section 2332 of the CBE Act; and

(B) Can demonstrate one of the following:

(i) At least 51% owned by a person who Asian, Pacific Islander, African American or Black Native American or Native American or Native Hawaiian, or Hispanic or Latino, or the management and daily operations are controlled by one of the foregoing;

(ii) At least 51% owned and controlled by a woman; or

(iii) Is a Disadvantaged business enterprise pursuant to

Section 2333 of the CBE Act.

Sec. 2053. Section 47-4665(b) of the District of Columbia Official Code is amended by striking the phrase “shall receive,” and inserting the phrase “may receive” in its place.

Sec. 2054. Creative and Open Space Modernization tax rebate.

Section ___ of the ___ (D.C. Official Code § 47-4665(f)), is amended as follows:

(1) \$580,366 shall be spent on § 47-4665 in Fiscal Year 2021 for one applicant.

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

7. TITLE II, SUBTITLE G. TAX ABATEMENTS FOR AFFORDABLE HOUSING IN HIGH-NEED AREAS

a. Purpose, Effect, and Impact on Existing Law

This subtitle expands exempts from real property tax certain real property designated by the DMPED. To be eligible the property must rent at least one- third of the units at a level affordable at 80 percent of area median income. Further, the developer must enter into land covenants, agree to use Certified Business Enterprises for 35 percent of project operations and construction costs, and agree to First Source hiring requirements for project operations but not construction costs. DMPED shall use a competitive process to select eligible projects.

The exemption can begin in the tax year immediately following the year in which the project receives a certificate of occupancy and can continue for up to 30 years with an option for another ten years. Exemptions are not available until fiscal year 2024. Total exemptions under the program are capped at \$200,000 in 2024 and \$4 million annually thereafter.

b. Committee Reasoning

The Committee recommends inclusion of this subtitle because it creates additional tools for the District to advance toward the Mayor’s goal of providing 36,000 additional

affordable housing units by 2025.¹⁰⁸ However, the Committee has made adjustments to this subtitle to enhance its potential to produce additional affordable housing units and to strengthen protections for the District’s investment in these tax abatements.

To ensure all communities in the District are able to take advantage of this incentive to develop affordable housing, the Committee has removed geographic restrictions. And to be inclusive of smaller developers, the threshold of 350 units has been removed. Furthermore, to enhance accountability of the owners of real property with this abatement, the Committee has required the owner to cause an independent compliance monitor to certify the real property’s continued eligibility for the abatement. The Committee also adjusted the duration of the tax abatement to up to 30 years with an option for an additional 10 years to provide the District flexibility in determining the duration of abatements for projects with different financial needs. To increase participation by (“Certified Business Enterprises”), the Committee has expanded CBE requirements to include construction cost and project operations and required that 50% of the tax abatements be reserved for CBEs.

The Committee has also indicated that DMPED will designate the real properties for abatement and administer the implementation of this subtitle. A chief priority of DMPED is to produce, preserve and protect affordable housing.¹⁰⁹ To that end, DMPED has carried out key initiatives increase affordable housing, including implementing the Mayor’s Preservation Strike Force, supporting DHCD in the creation of a preservation office and fund, and Inclusionary Zoning reform implementation.¹¹⁰ DMPED has also supported continued investment in affordable housing by leveraging all available sources including HPTF, federal funding, and land dispositions.¹¹¹ Lastly, DMPED conducted the Affordable Family Sized Unit Study, per a request of Councilmember Kenyan McDuffie, Chairman of the Committee on Business and Economic Development, to assess the inventory of family-sized units in the District and provide a more thorough understanding of any gaps in the supply of and demand for large units in the District.¹¹²

Therefore, the Committee recommends accepting this subtitle as adjusted by the Committee for inclusion.

c. Section-by-Section Analysis

- | | |
|------------|--|
| Sec. 2061. | States the short title. |
| Sec. 2062. | Amends Chapter 8 of Title 47 of the District of Columbia Official Code to to provide tax abatements for real property designated by DMPED that rents one-third of its units to households earning 80% or less of the area median income for a period of up to 30 years, with an option to continue the |

¹⁰⁸ Mayor’s Order 2019-036

¹⁰⁹ About DMPED, at <https://dmped.dc.gov/page/about-dmped>

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Family-Sized Unit Study, at <https://dmped.dc.gov/page/family-sized-unit-study>

abatement for up to an additional 10 years and provides reporting requirements and amends eligibility requirements.

Sec. XXX. Amends D.C. Official Code § 2-218.49 (b) to reserve 50% of the tax exemptions pursuant to this act for CBEs

d. Legislative Recommendations for the Committee of the Whole

Sec. 2061. Short title.

This subtitle may be cited as the “Tax Abatements for Affordable Housing Act of 2020”.

Sec. 2062. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

“47-860. Tax abatement for affordable housing.”.

(b) A new section 47-860 is added to read as follows:

“§ 47-860. Tax abatement for affordable housing.

“(a) Real property tax imposed by § 47-811 on real property certified as provided in subsection (d) of this section shall be abated for the period of time set forth in subsection (c) of this section, provided that:

“(1) The real property is designated by the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) pursuant to subsection (b) of this section;

“(2) At least one third of the housing units developed or redeveloped on the real property are affordable to households

(A) To and rented by households earning 80% or less of the area median income

(B) For a period of up to 30 years, with an option to continue the abatement for up to an additional 10 years;

“(3) The developer files a covenant in the land records of the District, binding on the developer and all of its successors, covenanting to comply with the requirements of paragraph (4) of this subsection;

“(4) The developer enters into an agreement with the District that requires the developer to, at a minimum, contract with certified business enterprises for at least 35% of the contract dollar volume of the construction and operations of the project, in accordance with section 2349 of the CBE Act; and

“(6) The developer enters into an agreement with DMPED setting forth the requirements of this subsection and such other terms and conditions as DMPED deems appropriate.

“(b) DMPED may, through a competitive process, designate real property to be eligible to receive a tax abatement under this section; provided, that the total amount of the tax abatements associated with real property designated by the DMPED pursuant to this subsection shall not exceed \$200,000 in Fiscal Year 2024 and shall not exceed \$4 million annually thereafter.

“(c) The tax abatement provided by this section shall begin in the tax year immediately following the tax year during which a final certificate of occupancy for the affordable housing developed as part of a project meeting the requirements of subsection (a) of this section is issued and shall continue until the end of the 30th tax year after the tax

year during which such final certificate of occupancy is issued; provided, that the tax abatement provided by this section shall not begin before October 1, 2023.

(d)(1) By July 1, 2023, and biannually thereafter, the owner shall cause an independent compliance monitor to certify, under penalty of perjury, a real property's continued eligibility for the abatement provided by this section. The certification shall include:

“(A) A description of the real property by street address, square, suffix, and lot;

“(B) The date the final certificate of occupancy for the affordable housing developed on the real property was issued;

“(C) The date the tax abatement begins and ends under subsection (c) of this section;

“(D) A statement that the conditions specified in subsection (a) of this section have been satisfied; and

“(E) The amount of abatement allocated to the property pursuant to subsection (b) of this section; and

“(F) Any other information that DMPED considers necessary or appropriate.

“(2) DMPED shall review the certifications required in paragraph (1) of this subsection and shall either affirm or decline the certifications to the Office of Tax and Revenue.

“(e)(1) DMPED shall certify to the Office of Tax and Revenue a real property's eligibility for the abatement provided by this section. DMPED' certification shall include:

“(A) A description of the real property by street address, square, suffix, and lot;

“(B) The date the final certificate of occupancy for the affordable housing developed on the real property was issued;

“(C) The dates the tax abatement begins and ends under subsection (c) of this section;

“(D) A statement that the conditions specified in subsection (a) of this section have been satisfied; and

“(E) The amount of abatement allocated to the property pursuant to subsection (b) of this section; and

“(F) Any other information that DMPED considers necessary or appropriate.

“(2) If at any time DMPED determines that the real property has become ineligible for the abatement provided by this section, DMPED shall notify the Office of Tax and Revenue and shall specify the date that the property became ineligible. The entire property shall be ineligible for the abatement on the first day of the tax year following the date when the ineligibility occurred.

“(3) If at any time DMPED determines that the abatement allowable with respect to any real property certified under this subsection must be reduced for any real property tax year pursuant to the limitation imposed by subsection (b) of this section, DMPED shall notify the Office of Tax and Revenue of the amount of the reduced abatement allowable for such property for such tax year.

“(f) The tax abatement provided by this section shall be in addition to, not in lieu of, any other tax relief or assistance from any other source.

“(g) The requirements of the First Source Act shall not apply to the construction or development of a project developed on real property designated by DMPED pursuant to subsection (b) of this section.

“(g) For the purposes of this section, the term:

“(1) “Area median income” has the meaning set forth in section 2(1) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1)).

“(2) “CBE Act” means the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*).

“(3) “Certified business enterprise” means a business enterprise or joint venture certified pursuant to the CBE Act.

“(4) “Developer” means the developer of housing units on real property eligible for a tax abatement under this section.

“(5) “First Source Act” means the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2- 219.03).

“(6) “First Source Agreement” means an agreement with the District governing certain obligations of the Developer pursuant to section 4 of the First Source Act, and Mayor’s Order 83-265, dated November 9, 1983, regarding job creation and employment.

“(h) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may promulgate regulations to implement this section, including regulations

governing the priority of assignment or method of allocation of the amount of abatement allowed under subsection (b) of this section.”.

Sec. xxx. CBE Equitable Tax Relief.

(a) Section 2349(b) (D.C. Official Code § 2-218.49 (b)) is amended to read as follows:

“DMPED shall set aside 50% of the tax exemptions of the Tax Abatement for Affordable Housing, as introduced on May 18, 2020 (B23-0760) for Certified Business Enterprises.”

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

8. TITLE II, SUBTITLE I. PROPERTY DISPOSITION AND DEVELOPMENT INCENTIVE ADMINISTRATIVE FEES

a. Purpose, Effect, and Impact on Existing Law

This subtitle authorizes the Mayor to impose administrative fees and charges to recover the costs of third-party services or goods provided to the District government in connection with the proposed or actual disposition of District-owned real property, or the proposed or actual provision of an economic development incentive. DMPED regularly incurs costs associated with the disposition of District-owned real property in DMPED’s portfolio. For those requirements related to the surplus or disposition of District-owned property, DMPED currently does not charge any fees for these services, nor are costs passed on to the proposed developer.

b. Committee Reasoning

DMPED regularly incurs costs associated with the disposition of District-owned real property in DMPED’s portfolio. For those requirements related to the surplus or disposition of District-owned property, DMPED currently does not charge any fees for these services, nor are costs passed on to the proposed developer. All the District’s revenue sources have been negatively impacted by current downturn as a result of the public health emergency.¹¹³ For this reason the Committee recommends inclusion of this subtitle.

c. Section-by-Section Analysis

¹¹³ Letter from Jeffery Dewitt, Chief Financial Officer, Office of the Chief Financial Officer to Phil Mendelson, Chairman, Council of the District of Columbia at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/April%202020%20Revenue%20Estimate%20Letter%20042020_rev.pdf

Sec. 2081. States the short title.

Sec. 2082. Amends Chapter 8 of Title 47 of the District of Columbia Official Code to to provide tax abatements for real property designated by DMPED that rents one-third of its units to households earning 80% or less of the area median income for a period of up to 30 years, with an option to continue the abatement for up to an additional 10 years and provides reporting requirements and eligibility requirements.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2081. Short title.

This subtitle may be cited as the “Property Disposition and Development Incentive Administrative Fees Act of 2020”.

Sec. 2082. Property disposition and development incentive fees.

(a) In connection with the proposed or actual disposition of District-owned real property, the proposed or actual provision of an economic development incentive, or other actions taken by the District government at the request of a third party related to District-owned real property, such as the provision of a right of entry, license, or temporary easement, the Mayor may impose fees to:

(1) Compensate the District government for costs incurred by the District government, including staff time and resources;

(2) Recover the costs of third party services or goods provided to the District government; or

(3) Compensate the District government for the fair market value of the action requested.

(b) The Mayor may, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue rules, including a schedule of fees, to implement this section.

(c) All fees collected pursuant to this section shall be deposited into the Economic Development Special Account, established by section 301 of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; D.C. Official Code § 2-1225.21).

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

9. TITLE II, SUBTITLE J. SPORTS WAGERING BUSINESS DEVELOPMENT PROGRAM

a. Purpose, Effect, and Impact on Existing Law

Subtitle II.J, the Implementation of the Sports Wagering Small Business Development Program Amendment Act of 2020 amends the Sports Wagering Lottery Amendment Act of 2018 to repeal the subject to appropriations clause to allow for implementation of the requirements of that legislation within existing resources.

b. Committee Reasoning

In 2018 the Council amended the Sports Wagering Lottery Amendment Act of 2018 to establish small business training programs and encourage increased participation by those businesses in sports wagering. The Act required the Department of Small and Local Business Development (DSLBD), in consultation with the Office of Lottery and Gaming (“OLG”), to establish a program to train small business to develop the capacity to become sports wagering operators and management service providers. The Act also required OLG to report annually to the Council on the participation in wagering by Certified Business Enterprises (“CBE”). Implementation was subject to appropriations.

This subtitle repeals the subject to appropriations clause applicable to these provisions. The Fiscal Year 2021 proposed budget includes a \$250,000 enhancement at DSLBD to implement the small business training provisions of the Sports Wagering

Lottery Amendment Act of 2018. OLG can implement the requirements for CBE reporting within existing resources.

c. Section-by-Section Analysis

Sec. 2091. States the short title.

Sec. 2092. Repeals the subject to appropriations clause of the Sports Wagering Lottery Amendment Act of 2018.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2091. Short title.

This subtitle may be cited as the “Implementation of the Sports Wagering Small Business Development Program Amendment Act of 2020”.

Sec. 2092. Section 5 of the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402), is repealed.

10. TITLE IV, SUBTITLE J. WILKINSON SCHOOL DISPOSITION PROCESS

a. Purpose, Effect, and Impact on Existing Law

This subtitle allows the Mayor to give the right of first offer to purchase, lease, or use the former Wilkinson Elementary School building to a charter school facility incubator or a public charter school that occupied, all or a portion of the former Birney Elementary School as of May 12, 2020.

b. Committee Reasoning

Charter schools have steadily shown improvement at preparing students for college.¹¹⁴ Therefore, granting a charter school incubator or public charter school with the right of first offer to purchase, lease or use the former Wilkinson Elementary School will enable a charter school to be permanently housed in that location and continue educating students in the District.

c. Section-by-Section Analysis

Sec. 4091. States the short title.

¹¹⁴ Krisit, King, DC public, charter schools show 4 consecutive years of improved test scores, WTOP News, at <https://wtop.com/dc/2019/08/public-and-charter-schools-in-d-c-show-four-consecutive-years-of-test-score-improvements/>

Sec. 4092. Amends D.C. Official Code § 38-1802.09(b)(1),) to authorize the Mayor to give the right of first offer to purchase, lease, or use the former Wilkinson Elementary School building to a charter school facility incubator or a public charter school that occupied, all or a portion of the former Birney Elementary School as of October 1, 2020.

Sec. 4093. Amends D.C. Official Code § D.C. Code § 10-801 allows the Mayor to hold only one public hearing on the disposition of Wilkinson Elementary

d. Legislative Recommendations for the Committee of the Whole

Sec. 4091. Short title.

This subtitle may be cited as the “Wilkinson School Disposition Process Amendment Act of 2020”.

Sec. 4092. Section 2209(b)(1) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.09(b)(1)), is amended by adding a new subparagraph (B-ii) to read as follows:

“(B-ii) Notwithstanding subparagraph (A) of this paragraph, the Mayor may give the right of first offer to purchase, lease, or otherwise use the former Wilkinson Elementary School building to a charter school facility incubator that leased, or a public charter school that occupied, all or a portion of the former Birney Elementary School building as of October 1, 2020.”.

Sec. 4093. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § D.C. Code § 10-801), is amended as follows:

(a) Subsection (a)(1) is amended by striking the phrase “20 years” and inserting the phrase “15 years” in its place.

(b) A new subsection (b-6) is added to read as follows:

“(b-6)(1) The public hearings required by subsections (a-1)(4) and (b-2) of this section shall not be required for the disposition of the former Wilkinson Elementary School (“Wilkinson real property”). For the Wilkinson real property, the Mayor shall hold at least one public hearing on the finding that the Wilkinson real property is no longer required for public purposes and to obtain community input on the proposed disposition of the Wilkinson real property before submitting the proposed surplus resolution and proposed disposition resolution to the Council pursuant to this section.

“(2) The public hearing required by paragraph (1) of this subsection shall be held at an accessible evening or weekend time and in an accessible location in the vicinity of the Wilkinson real property. The Mayor shall provide at least 30 days written notice of the public hearing to the affected Advisory Neighborhood Commission and publish notice of the public hearing in the District of Columbia Register at least 15 days before the public hearing.”.

e. Fiscal Impact

There is no fiscal impact associated with this subtitle.

11. TITLE V, SUBTITLE B. MEDICAL MARIJUANA PROGRAM ADMINISTRATION

e. Purpose, Effect, and Impact on Existing Law

This subtitle transfers all functions in the Department of Health (DOH) related to the Medical Marijuana and Integrative Therapy (MMIT) program to the Alcoholic Beverage Regulation Administration (ABRA). The subtitle establishes a non-lapsing Medical Cannabis Administration Fund to collect all funds received from medical cannabis licensing, permitting, and registration fees. The fees are currently being collected in the Other Medical Licenses and Fees Fund. The Committee amends this provision to include further criteria for minority-owned business enterprises that apply for registration of a dispensary, cultivation center, or testing laboratory. The amendment would establish preferences for minority-owned business seeking to enter the supply-side of the medical marijuana business.

f. Committee Reasoning

The Committee accepts the Mayor’s proposal to transfer the MMIT program from DOH to ABRA especially since recreational marijuana would primarily be managed by ABRA once it rolls out. It would create for a more effective administration of the industry since both programs would be managed under one umbrella agency. The Committee also strongly advocates for the social equity amendments of the MMIT program. Since the inception of the medical marijuana program in the District in 2011, 8 businesses have been licensed to operate medical marijuana cultivation and processing facilities however of these 8 businesses, 7 are majority owned by white shareholders, with 1 majority owned by African American. The objective of the amendment is to promote equitable ownership and employment opportunities in the medical marijuana industry to decrease disparities in life outcomes for marginalized communities of color and address the disproportionate impacts of the war on drugs in those communities in the District.

The fiscal impact of the proposed legislation and its amendment is neutral, in that it would not require any spending. However, DOH would be transferring \$360,000 of its local funds, \$597,000 of its special purpose revenue, and six full time employees to ABRA to continue the administration of the program.

g. Section-by-Section Analysis

- Sec. 5011. States the short title.
- Sec. 5012. Amends D.C. Official Code § 7-1671.01 *et seq* to establish new definitions and include new criteria for minority-owned medical marijuana businesses.
- Sec. 5013. Amends Chapter 2 of Title 25 of the D.C. Code to transfer all functions and personnel of the Medical Marijuana and Integrative Therapy program from DOH to ABRA.

h. Legislative Recommendation for the Committee of the Whole

Sec. 5011. Short title.

This subtitle may be cited as the “Medical Marijuana Program Administration Amendment Act of 2020”.

Sec. 5012. The Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 7-1761.01), is amended as follows:

(1) Paragraphs (1), (1A), and (1B) are redesignated as paragraphs (1B), (1C), and (1D), respectively.

(2) New paragraphs (1) and (1A) are added to read as follows:

“(1) “ABRA” means the Alcoholic Beverage Regulation Administration.

“(1A) “ABC Board” means the Alcoholic Beverage Control Board.”.

(3) Paragraph (3)(B) is amended by striking the phrase “with the Department” and inserting the phrase “with ABRA” in its place.

(4) Paragraph (5) is amended by striking the phrase “with the Mayor” and inserting the phrase “with ABRA” in its place.

(5) Paragraph (6) is repealed.

(6) Paragraph (7) is amended by striking the phrase “with the Mayor” and inserting the phrase “with ABRA” in its place.

(7) Paragraph (19) is amended by striking the phrase “if the Department” and inserting the phrase “if ABRA” in its place.

(8) Paragraph (21) is amended by striking the phrase “by the Department” and inserting the phrase “by ABRA” in its place.

(b) Section 3 (D.C. Official Code § 7-1671.02) is amended as follows:

(1) Subsection (c)(1)(B) is amended by striking the phrase “with the Mayor” and inserting the phrase “with ABRA” in its place.

(2) Subsection (d) is amended by striking the phrase “with the Mayor” and inserting the phrase “with ABRA” in its place.

(c) Section 5(b)(2) (D.C. Official Code § 7-1671.04(b)(2)) is amended by striking

the phrase “by the Mayor” and inserting the phrase “by ABRA” in its place.

(d) Section 6 (D.C. Official Code §7-1671.05) is amended as follows:

(1) The lead-in text is amended by striking the phrase “be administered by the Mayor and shall”.

(2) Paragraph (1)(A) is amended by striking the phrase “with the Department” and inserting the phrase “with ABRA” in its place.

(3) Paragraph (4)(A) is amended as follows:

(A) Subparagraph (iv) is amended by striking the phrase “by the Department” and inserting the phrase “by the ABC Board” in its place.

(B) Subparagraph (v) is amended by striking the phrase “by the Mayor” and inserting the phrase “by ABRA” in its place.

(4) Paragraph (5A) is amended as follows:

(A) The lead-in text is amended by striking the phrase “by the Department” and inserting the phrase “by the ABC Board” in its place.

(B) Paragraph (D) is amended by striking the phrase “by the Department” and inserting the phrase “by the ABC Board” in its place.

(5) Paragraph (5B)(D) is amended by striking the phrase “that the Department” and inserting the phrase “that ABRA” in its place.

(6) Paragraph (7) is amended by striking the phrase “if the Mayor determines” and inserting the phrase “if the ABC Board determines” in its place.

(7) Paragraph (10)(A) is amended by striking the phrase “apply to the Mayor” and inserting the phrase “apply to the ABC Board” in its place.

(8) Paragraph (14) is amended by striking the phrase “notify the

Department” and inserting the phrase “notify ABRA” in its place.

(e) Section 7 (D.C. Official Code § 7-1671.06) is amended as follows:

(1) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “with the Mayor” and inserting the phrase “with ABRA” in its place.

(B) Paragraph (3)(A) is amended by striking the phrase “determined by rulemaking” and inserting the phrase “determined by the Mayor by rules issued in accordance with section 14” in its place.

(C) Paragraph (4) is amended by striking the phrase “the Mayor” and inserting the phrase “the ABC Board” in its place.

(D) Paragraph (5) is amended to read as follows:

“(5)(A) An application for registration of a dispensary, cultivation center, or testing laboratory submitted by a medical cannabis certified business enterprise, or applicant eligible to be a medical cannabis certified business enterprise, shall be awarded a preference point equal to 50 points or 20% of the available points, whichever is more.

(B) A medical cannabis certified enterprise shall:

“(i) Have one or more minority owners who have been residents of the District for at least 15 years and individually or collectively own at least 60% of the licensed business enterprise;

“(ii) Have one or more owners whose income does not exceed \$349,999, who have been residents of the District for at least 10 of the preceding 15 years, and whose net worth, excluding the value of their residence, does not exceed \$1 million, and individually or collectively own at least 60% of the licensed business enterprise;

“(iii) Have a chief executive officer and its highest-level managerial employees perform their managerial functions in a principal office located in the District;

“(iv) Have at least 50% of its employees be residents of the District;

“(v) Have at least 50% of its contractors be residents of the District; and

“(vi) Have at least 80% of the assets of the certified business enterprise, including bank accounts, be located in the District.

(C) An applicant seeking to qualify as a medical cannabis certified business enterprise shall submit with the application for registration of a dispensary, cultivation center, or testing laboratory, an affidavit attesting to:

“(i) The number of minority owners of the applicant;

“(ii) The ownership interest of any minority owners of the applicant;

“(iii) The number of minority employees of the applicant;

“(iv) The number of minority contractors of the applicant.”.

(D) For the purpose of this paragraph, the term:

“(i) “Medical cannabis certified business enterprise” means a “certified business enterprise” as that term is defined in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005; (D.C. Official Code § 2-218.02(1D)), that operates a medical cannabis business as a dispensary, cultivation center, or testing laboratory.

“(ii) “Minority” means a person who is Asian, a Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx.”.

(2) Subsection (e)(3) is amended by striking the phrase “that the Mayor may

allow” and inserting the phrase “that the ABC Board may allow” in its place.

(3) Subsection (g-2) is amended by striking the phrase “the Mayor” and inserting the phrase “the ABC Board” in its place.

(4) Subsection (g-3) is amended by striking the phrase “the Mayor” and inserting the phrase “the ABC Board” in its place.

(5) Subsection (j) is amended by striking the phrase “the Mayor” and inserting the phrase “the ABC Board” in its place.

(f) Section 8(a) (D.C. Official Code § 7-1671.07) is amended by striking the phrase “to the Department” and inserting the phrase “to ABRA” in its place.

(h) Section 14 (D.C. Official Code § 7-1671.13) is amended by adding a new subsection (a-) to read as follows:

“(a-1) Pursuant to the transfer of functions of the Department of Health to ABRA by D.C. Official Code § 25-204.02, the Mayor shall issue rules in accordance with subsection (b) of this section, which rules shall allow registered dispensaries to provide medical marijuana to qualifying patient through delivery, curbside pickup and at-the-door options.”.

(h) New section 9a and 9b are added to read as follows:

“Sec. 9a. Medical Cannabis Administration Fund.

“(a) There is established as a special fund the Medical Cannabis Administration Fund (“Fund”), which shall be administered by ABRA in accordance with subsection (c) of this section.

“(b) Except for renewal fees, all funds received from medical cannabis licensing, permitting, and registration fees shall be deposited into the Fund.

“(c) Money deposited in the Fund shall be used by ABRA for the purpose of administering the medical marijuana program.

“(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

“(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

“Sec. 9b. Medical Cannabis Social Equity Fund.

“(a) There is established as a special fund the Medical Cannabis Social Equity Fund (“Equity Fund”), which shall be administered by ABRA in accordance with subsection (d) of this section.

“(b) All funds received from penalties and fines imposed pursuant to section 9, all renewal fees of cannabis licensing, permitting, and registration, and any funds appropriated for the purpose of the Equity Fund shall be credited to the Medical Cannabis Social Equity Fund.

“(c) The Medical Cannabis Social Equity Fund shall be exclusively used for the following purposes:

“(1) To provide low-interest rate loans and grants to medical marijuana certified business enterprise as defined in section 5(5)(D)(i) to pay for ordinary and necessary expenses to start and operate a medical cannabis business establishment permitted by this section;

“(2) To pay for outreach that may be provided or targeted to attract and support medical marijuana certified business enterprise;

“(5) To conduct any study or research concerning the participation of minorities, women, veterans, or people with disabilities in the medical cannabis industry, including barriers to such individuals entering the industry as equity owners of medical cannabis business establishments; and

“(6) To assist with specific career training, business ownership technical assistance, fee waivers, and all other services necessary for medical cannabis certified business enterprise.

“(d) The money deposited into the Equity Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

“(e) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Equity Fund shall be continually available without regard to fiscal year limitation.

“(g) Beginning January 1, 2021, and each year thereafter, ABRA shall submit annual report to the Council on the outcomes and effectiveness of this section including but not limited to the number of medical marijuana certified business enterprises receiving Social Equity Fund assistance, the amount of assistance distributed through loans and grants in the aggregate, the locations of licensed Social Equity establishments, and number of jobs creating through the Social Equity assistance.

“(h) The Mayor shall submit to the Council, as part of the annual budget, a budget for the Medical Cannabis Social Equity Fund and a request for an appropriation for

expenditures from the Medical Cannabis Social Equity Fund. This includes expenditures by other agencies relating to the administration of the social equity program.”.

Sec. 5013. Chapter 2 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

“§ 25-204.02. Medical marijuana program; transfer of functions of the Department of Health.”.

(b) A new section 25-204.02 is added to read as follows:

“§ 25-204.02. Medical marijuana program; transfer of functions of the Department of Health.

“(a) The Board and ABRA shall be responsible for carrying out the responsibilities assigned to them by the Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) (“Medical Marijuana Act”), and for any responsibilities of the Mayor under the Medical Marijuana Act that the Mayor delegates to the Board or ABRA.

“(b)(1) Except as provided in paragraph (2) of this subsection, all personal property, assets, records, including both electronic and physical files, licensing agreements, and contracts, equipment, computer software, obligations, and unexpended balances of appropriations, allocations, assets, and liabilities, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration by the Department of Health of the medical marijuana program pursuant to the Legalization of Marijuana for Medical Treatment Initiative of 1998, effective February 25, 2010 (D.C. Law

13-315; D.C. Official Code § 7-1671.01 *et seq.*), as of September 30, 2020, are transferred to ABRA.

“(2) This subsection shall not apply to the personal property, assets, records, including both electronic and physical files, licensing agreements, and contracts, equipment, computer software, obligations, and unexpended balances of appropriations, allocations, assets, and liabilities, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration by the Department of Health of the medical marijuana program that are within the purview of the Board of Medicine, Board of Nursing, or Board of Dentistry.

“(c) All rules, orders, obligations, determinations, contracts, agreements, and understandings of the Department of Health pertaining to the medical marijuana program shall remain in effect until such time as they may be lawfully amended, modified, or repealed.

“(d) ABRA shall coordinate with the Department of Health regarding the transition of the administration of the medical marijuana program to ABRA.

“(e)(1) The directors of ABRA and the Department of Health shall jointly determine which personnel, if any, of the Department of Health associated with the administration of the medical marijuana program shall be transferred from the Department of Health to ABRA.

“(2) Personnel who are transferred to ABRA pursuant to this subsection shall be subject to the ABRA Director’s personnel authority, pursuant to section 406(b)(21) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978,

effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.06(b)(21)), including as it relates to employment classifications and pay scales.”.

12. TITLE VI, SUBTITLE A. OPPORTUNITY ACCOUNTS

a. Purpose, Effect, and Impact on Existing Law

This subtitle, the Opportunity Accounts Expansion Amendment Act of 2020, will allow the Commissioner of the Department of Insurance, Securities, and Banking (DISB) to issue a waiver of the private fund matching requirement of the DC Opportunity Accounts savings program, increase the District’s matching and maximum contribution amount, and expand allowable uses for standard and emergency withdrawals from the accounts.

b. Committee Reasoning

DISB offers income- and asset-eligible District residents the ability to participate in the DC Opportunity Accounts savings program, restarted in fiscal year 2020. Through this program, Qualified residents make regular deposits, up to \$1,500, into a savings account. The District and private funders then each match those deposits at two dollars for every one dollar deposited.

The program was originally established in 2001, but after a period of dormancy was revived in Fiscal Year 2020. When the program was relaunched, DISB was able to support 130 Opportunity Accounts with a combination of public and private funding. Joseph Leitmann-Santa Cruz, the Executive Director of Capital Area Asset Builders (CAAB), testified during the Committee’s performance oversight hearing and budget oversight hearing on DISB. During both hearings, Mr. Leitmann-Santa Cruz expressed his support for the Opportunity Accounts program. CAAB is a DC based non-profit organization that partners with DISB to manage the Opportunity Accounts program.

This subtitle expands and extends the Opportunity Accounts program. The subtitle allows the DISB Commissioner to waive the private funder match contribution requirement and increase the District’s matching contribution to up to four dollars for every one dollar deposited by the resident. The subtitle also expands the allowable uses for standard and emergency withdrawals by account holders.

Participant can use the funds in the DC Opportunity Accounts under defined standard withdrawal circumstances and emergency circumstances. Participants can withdraw funds in standard situations to pay educational expenses, job training costs, for the purchase or repair of a primary residence, to start up a business, and to help with retirement planning. The subtitle expands the allowable uses for standard withdrawals to include any expense authorized by DISB through program rules.

Participants can also withdraw funds in emergency situations to pay medical expenses for the account holder or their immediate family, to prevent an eviction, and to help with living expenses following the loss of employment. When a participant withdraws funds under an emergency situation, they can only withdraw their own funds, not matching funds, and must repay the withdrawn funds within twelve months. The subtitle expands the allowable uses under emergency conditions to include payments for making health insurance premium payments in the event of an unexpected loss of income. The subtitle does, however, maintain the restriction on withdrawing matching funds to prevent eviction and for living expenses. It also allows a participant to withdraw matching funds for a medical emergency or to make insurance premium payments and eliminates the requirement to repay the funds, but it requires a participant to resume regular deposits into the account within ninety days.

The Mayor's proposed Fiscal Year 2021 budget for the Agency includes \$1,200,000 from the Securities and Banking Fund to support the Opportunity Accounts program. The funds will support continuation of the existing 130 accounts and can support matching on an increased match basis for approximately 130 new Opportunity Accounts.

c. Section-by-Section Analysis

Sec. 6001. States the short title.

Sec. 6002. Amends D.C. Official code § 1-307.61 *et seq.* to authorize the DISB Commissioner to waive the private matching requirements, to provide District matching funds of up to \$4 for every dollar deposited by the account holder, and to increase the District's aggregate matching funds limit from \$3,000 to \$6,000; expands allowable standard withdrawals to include paying for costs, expenses, or items authorized by rule; expands allowable emergency withdrawals to include making health insurance premium payments in the event of a sudden and unexpected loss of income; amends restrictions on withdrawal of matching funds to prohibit the withdrawal of matching funds when making emergency withdrawals to prevent eviction or foreclosure, to meet necessary living expenses following loss of employment, and to pay for medical costs but allows for the withdrawal of matching and deposited funds to when making emergency withdrawals to meet necessary living expenses following sudden, unexpected loss of income; and removes the requirement that an account holder repay funds withdrawn for emergency withdrawals, but does require the account holder to resume making deposits into the account within 90 days of the withdrawal.

d. Legislative Recommendations for the Committee of the Whole

Sec. 6001. Short title.

This subtitle may be cited as the “Opportunity Accounts Expansion Amendment Act of 2020”.

Sec. 6002. The Opportunity Accounts Act of 2000, effective April 3, 2001 (D.C. Law 13-266; D.C. Official Code § ~~1-307.61~~ *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-307.61) is amended by adding a new paragraph (2A) to read as follows:

“(2A) “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.”.

(b) Section 8(b) (D.C. Official Code § 1-307.67(b)) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase “per account.” and inserting the phrase “per account, except as provided in paragraph (3) of this subsection.” in its place.

(2) A new paragraph (3) is added to read as follows:

“(3) The Commissioner may waive the requirement in subsection (a) of this section and may provide matching funds of up to \$4 for every dollar the account holder deposits into the opportunity account when adequate federal or private matching funds are not available. For each additional dollar of matching funds that the District provides to an opportunity account pursuant to such a waiver, the aggregate matching funds limit set forth in paragraph (2) of this subsection for that account shall be increased by \$1.”.

(c) Section 9(a) (D.C. Official Code § 1-307.68(a)) is amended as follows:

(1) Paragraph (6) is repealed.

(2) Paragraph (8) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(3) A new paragraph (9) is added to read as follows:

“(9) To pay for any cost, expense, or item authorized by a rule issued pursuant to section 14.”.

(d) Section 10 (D.C. Official Code § 1-307.69) is amended as follows:

(1) Subsection (b) is amended as follows:

(i) Paragraph (2) is amended by striking the phrase “; or” and inserting a semicolon in its place.

(ii) Paragraph (3) is amended by striking the period and inserting the phrase “; and” in its place.

(iii) A new paragraph (4) is added to read as follows:

“(4) Making health insurance premium payments in the event of a sudden, unexpected loss of income.”.

(2) Subsection (c) is repealed.

(3) New paragraphs (c-1), (c-2), and (c-3) are added to read as follows:

“(c-1) If an account holder makes an emergency withdrawal for the purposes of subsection (b)(2) or (3) of this section, the account holder shall only withdraw funds deposited by the account holder and shall not withdraw matching funds.

“(c-2) If an account holder makes an emergency withdrawal for the purposes of subsection (b)(1) of this section, the account holder shall only withdraw funds deposited by the account holder and shall not withdraw matching funds, unless the withdrawal is for a medical emergency.

“(c-3) If an account holder makes an emergency withdrawal for the purposes of subsection (b)(4) of this section, the account holder may withdraw funds deposited by the account holder and matching funds.”.

(4) The lead-in language of subsection (e) is amended to read as follows:

“(e) An account holder shall not be required to repay funds withdrawn from the opportunity account for an emergency withdrawal but must resume making deposits into the opportunity account within 90 days after the emergency withdrawal. If the account holder fails to make a deposit within 90 days after the emergency withdrawal:”.

13. TITLE VI, SUBTITLE C. GAMES OF SKILL MACHINES CONSUMER PROTECTION ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

In early 2020, the Council of the District of Columbia passed emergency legislation to legalize a new category of gaming devices that were seeking to operate in on-premises alcohol retailers, called games of skill. These games are mechanical or electronic devices where the ability to win is not influenced by prior wins or losses, outside sources, chance, or unreasonable or unknown skill requirements. Players can win cash, gift cards, or vouchers. Under this legislation, the Office of the Attorney General (OAG) certifies that a particular device was a game of skill, and thus not gambling, and the Alcoholic Beverage Control Board (Board) would authorize a licensed establishment to host the game of skill.

The subtitle maintains some retailer operating parameters from the emergency law and establishes a more comprehensive games of skill regulatory structure managed by the Office of Lottery and Gaming (OLG). The subtitle authorizes OLG to issue rules to regulate games of skill. These rules include standards for inspecting devices and retailers, payment and payout parameters, fees and taxation, accounting, posting requirements, record retention, penalties for violations, and device internal controls.

The subtitle authorizes OLG to is the following categories of licenses to games of skill industry participants: manufacturers; distributors; suppliers; and retailers. The subtitle also states that OLG should ensure that any license applicant receives and passes a background check, is in good standing pursuant to the District’s clean hands policy, and does not have any interests in other licenses issued related to games of skill. Any license fees will be deposited into OLG’s Lottery, Gambling, and Gaming Fund.

The subtitle requires that a game of skill manufacturer or distributor pay for and test every device at an accredited laboratory. The subtitles requires devices be set to payout

winnings at least 80 percent of their earnings over the device's lifetime; accurately portray game outcomes; record play and winning history for the prior ten plays; have a non-resettable meter; have accounting software that tracks cash inserted, winnings paid, and credits awarded and played; and be able to link to OLG's centralized accounting system described below. The subtitle gives a manufacturer one year from the subtitle's implementation to comply with these and other device operating requirements enumerated in the subtitle. The subtitle also requires a distributor to maintain insurance on any devices it brings to the District.

The subtitle authorizes each retailer to register up to five game of skill devices, which must each display a registration sticker, be located within the retailer only in Alcoholic Beverage Regulation Administration's (ABRA) approved locations, and be near a properly posted warning sign. Devices cannot dispense cash prizes, so the subtitle specifies the information that needs to be included on the award voucher that can be redeemed for cash at the licensed retailer.

The subtitle requires OLG to establish a centralized accounting system within one year to which each device must be linked to track their operations, including game revenues, to ensure compliance with the subtitle and any related rules. The centralized accounting system should not track personal or financial information about individual players. Each retailer must file a monthly return with the District and pay a 10 percent tax on the gross game revenues generated by games of skill in their establishments. These tax payments will be deposited into the District's Local Fund.

The subtitle authorizes OLG to issue fines, suspend, or revoke a licensee's license for its failure to comply with any provisions in this subtitle or any rules issued by OLG. OLG should notify ABRA within 48-hours of any suspension or revocation of a license. The subtitle grants a licensee the right to appeal to OLG any actions by OLG and, upon affirmation of OLG's original action, the right to appeal to the Superior Court of the District of Columbia. The subtitle also authorizes OLG to seize any devices if the licensee's license has been suspended or revoked, the retailer ceases operations, or another government agency shuts down the retailer's operations. OLG can issue fines of up to \$50,000. OAG is also authorized to bring action against any licensee that intentionally falsifies or misleads an individual's probability of winning. OAG can seek a civil penalty up to \$50,000 for a violation.

The Board's and ABRA's responsibilities in certifying and overseeing the retail establishments that host game of skill devices will be mostly consistent with their authorized responsibilities in the emergency law. Board licensed establishments must continue to meet in-establishment location restrictions, including providing the Board with a diagram of device placement, provide the Board with proof of a manufacturer or distributor's OLG license, pay a \$200 game of skill endorsement fee, and follow all Board and ABRA signage and advertising requirements. The Board also requires establishments to restrict play by patrons who appear intoxicated or are under the age of eighteen. The Board prohibits a licensed establishment from entering into any alcohol sales revenue sharing agreements with a game of skill manufacturer or distributor unless otherwise

approved by the Board. The subtitle authorizes an ABRA investigator to request and check the identification of any player and to seize fake identification.

b. Committee Reasoning

The Committee is concerned with the requirements of this subtitle. The Committee has engaged with stakeholders, including games of skill industry representatives, on the emergency law, and worked closely with industry representatives to better understand the technical nature of games of skill. These stakeholders have expressed concern with the statutory language included in this subtitle. For example, concerns have been raised that the subtitle requires devices be set to payout winnings at least 80 percent of their earnings over the device's lifetime, which, according to stakeholders, is not how games of skill work. These games are mechanical or electronic devices where the ability to win is not influenced by prior wins or losses, outside sources, chance, or unreasonable or unknown skill requirements.

The Committee is also concerned about the anomalous nature of the regulatory structure proposed in this subtitle. There are very few jurisdictions that regulate games of skill in the manner proposed in this subtitle. In early 2020, OLG commissioned a study that determined that Georgia is the jurisdiction whose regulatory structure most resembled that proposed by the District.

Finally, Committee is concerned about the projected cost of moving regulation of sports wagering from the Alcoholic Beverage Regulation Agency (ABRA), which is tasked with administering sports wagering under the emergency law, to OLG. The emergency law authorized ABRA to enforce the bill's requirements. According to the fiscal impact statement accompanying the emergency law, funds are sufficient in the Fiscal Year 2020 through Fiscal Year 2023 budget and financial plan to implement the emergency, and ABRA can issue games of skill endorsements and enforce violations of endorsement conditions with its existing licensing and enforcement personnel.

Under this subtitle, OLG will need to license all participants in the District's games of skill industry, establish the centralized accounting system, and ensure compliance with the subtitle's requirements and any rules issued. OLG will need to hire a new licensing coordinator to process applications and a new investigator to ensure compliance with OLG's regulations. The new personnel will cost \$225,000 in fiscal year 2021 and \$909,000 over the four-year financial plan period. As part of the licensing process, OLG will also need to perform background checks and issue registration stickers for each device. These administrative costs are approximately \$126,000 in fiscal year 2021 and \$161,000 over the four-year financial plan period. While each device also needs to be tested in an accredited laboratory, the device manufacturers and distributors will be responsible for those costs. OLG expects that it will take a full year to implement the centralized accounting system with a third-party contractor. The cost of the contract is typically a percentage of the gross gaming revenues and is estimated to cost \$832,000 in fiscal year 2022 and approximately \$2.7 million over the four-year financial plan period.

For these reasons, the Committee does not recommend adoption of this subtitle. The Committee recommends that a permanent law to establish regulation over games of skill in the District be considered as a stand-alone legislation. Under this approach, the Committee can continue to engage with the Mayor and stakeholders to address the above stated concerns and solicit public testimony during a hearing. There should be sufficient time to do so because the emergency legislation expires on December 17, 2020.

c. Section-by-Section Analysis

- Sec. 6021. States the short title.
- Sec. 6022. Amends D.C. Official code §§ 22-1716 – 22-1718 and 36-601.01 *et seq.* to establish a comprehensive games of skill regulatory structure managed by OLG; authorizes OLG to issue rules to regulate games of skill, issue licenses to games of skill participants, and deposit licensing feeds into OLG’s Lottery, Gambling, and Gaming Fund; establish requirements for licensees; establish requirements for games of skill machines; require that games of skill may only be located within ABRA licensed and approved locations; require OLG to establish a centralized accounting system; authorize OLG to issue fines and suspend or revoke a license for failure to comply with provision of the subtitle or any rules issues by OLG, and requires OLG to notify ABRA within 48 hours of any such suspension or revocation.
- Sec. 6023. Amends D.C. Official Code § 22-1704 to prohibit the installation or operation of games of skills machines in the District except at permitted by District law.

d. Legislative Recommendations for the Committee of the Whole

Sec. 6021. Short title.

This subtitle may be cited as the “Game of Skill Machines Consumer Protection Act of 2020”.

Sec. 6022. The Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 22-1716–22-1718 and 36.601.01 *et seq.*), is amended as follows:

(a) The portion of section 3 currently codified as D.C. Official Code § 22-1716 is amended by striking the phrase “Monte Carlo night parties,” and inserting the phrase “Monte Carlo night parties, game of skill machines,” in its place.

(b) The portion of section 3 currently codified as D.C. Official Code § 22-1717 is amended by striking the period at the end and inserting the phrase “, or game of skill machines licensed and regulated by the Office of Lottery and Gaming.” in its place.

(c) The portion of section 3 currently codified as D.C. Official Code § 22-1718 is amended by striking the period at the end and inserting the “, or the manufacture, distribution, servicing, retailing, sale, lease, purchase, or possession of machines, tickets, slips, certificates, or cards for game of skill machines excepted and permissible pursuant to this act.” in its place.

(d) The portion of section 4 currently codified as D.C. Official Code § ~~36-601.12~~ is amended as follows:

(1) The section heading is amended by striking the phrase “Lottery, Charitable Games, and Sports Wagering” and inserting the phrase “Gambling and Gaming” in its place.

(2) Subsection (a) is amended to read as follows:

“(a) There is hereby established as an enterprise fund the Lottery, Gambling, and Gaming Fund (“Fund”), under the administration of the Chief Financial Officer.”

(3) A new subsection (a-1) is added to read as follows:

“(a-1) Revenue from the following sources shall be deposited into the Fund or a division of the Fund established by the Chief Financial Officer:

“(1) All funds generated by gambling activities operated or licensed by the Chief Financial Officer; and

“(2) All fees collected under sections 406 through 409.”.

(4) Subsection (c) is amended by striking the word “gambling” and inserting the phrase “gambling and gaming” in its place.

(d) A new Title IV is added to read as follows:

“TITLE IV. GAME OF SKILL MACHINES.

“Sec. 401. Definitions

“For purposes of this title, the term:

“(1) “ABC Board” means the Alcoholic Beverage Control Board.

“(2) “ABRA” means the Alcoholic Beverage Regulation Administration.

“(3) “CFO” means the Chief Financial Officer of the District of Columbia.

“(4) “Distributor” means a person licensed under this title to buy, sell, lease, maintain, or service game of skill machines, or any major components or parts of a game of skill machine, for distribution to retailers.

“(5) “Game of skill machine” means a mechanical or electronic gaming device that rewards the winning player or players with cash, a gift card, or a voucher that can be redeemed for cash. The mechanical or electronic gaming device shall not be considered a game of skill if:

“(A) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;

“(B) The outcome of the game can be controlled by a source other than a player playing the game;

“(C) The success of a player is or may be determined by a chance event that cannot be altered by the player’s actions;

“(D) The ability of a player to succeed at the game is impacted by game features not visible or known to a reasonable player; or

“(E) The ability of a player to succeed at the game is impacted by the exercise of skill that no reasonable player could exercise.

“(6) “Gross game of skill machine revenue” means the total of cash or cash equivalents received from a game of skill machine minus the total of:

“(A) Cash or cash equivalents paid to players as a result of a game of skill machine;

“(B) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of a game of skill machine; and

“(C) The actual cost paid by the license holder for personal property distributed to a player as a result of a game of skill machine, excluding travel expenses, food, refreshments, lodging, and services.

“(7) “Licensed establishment” means an on-premises retail establishment licensed by the ABC Board to sell, serve, and allow for the consumption of alcoholic beverages.

“(8) “Licensed premises” means the physical location of a licensed establishment that is authorized by the Office to offer game of skill machines.

“(9) “Licensee” means a person who possesses a game of skill manufacturer, distributor, supplier, or retailer license issued by the Office.

“(10) “Manufacturer” means a person that is licensed under this title and that manufactures or assembles game of skill machines for sale or lease to distributors.

“(11) “Office” means the Office of Lottery and Gaming.

“(12) “Retailer” means a person that is licensed under this title to offer game of skill machines on its licensed premises.

“(13) “Supplier” means a person that is licensed under this title to supply major components or parts of game of skill machines to licensed manufacturers or distributors.

“Sec. 402. Authorization of game of skill machines.

“The operation of game of skill machines shall be lawful in the District if conducted in accordance with this title and the rules issued pursuant to this title.

“Sec. 403. Rules and regulations governing game of skill machines.

“(a) The CFO, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules governing game of skill machines to implement the provisions of this title and protect the public interest.

“(b) The rules issued by the CFO pursuant to subsection (a) of this section shall include:

“(1) Standards for conducting inspections of game of skill machines for compliance with industry standards;

“(2) Standards for inspecting licensed establishments for compliance with this title;

“(3) Minimum and maximum payment amounts for playing game of skill machines;

“(4) The maximum amount of allowable winnings per game;

“(5) Requirements relating to how fees and taxes are to be remitted;

“(6) The method of accounting to be used by a licensed establishment where a game of skill machine is authorized;

“(7) Methods of age verification;

“(8) Types of records that shall be required to be maintained by a licensee;

“(9) Posting requirements;

“(10) Advertising guidelines, including specific language concerning individuals under the age of 18;

“(11) Penalties for violating this title or rules issued pursuant to this title; and

“(12) Internal control standards for game of skill machines.

“Sec. 404. Game of skill machine license requirements; prohibition.

“(a)(1) Except as provided in subsection (f) of this section, no person may offer or allow a game of skill machine in the District unless all the licenses required by this title, or by a rule issued pursuant to this title, have been duly obtained.

“(b)(1) The Office shall issue the following categories of game of skill machine licenses:

“(A) Manufacturer;

“(B) Distributor;

“(C) Supplier; and

“(D) Retailer.

“(2) The Office shall not grant a license listed in paragraph (1) of this subsection until it has determined that each person that possesses 10% or greater beneficial or proprietary interest in the applicant has been approved for licensure in accordance with this title and the rules issued pursuant to this title.

“(c)(1) An applicant for an initial manufacturer, distributor, or supplier license shall be subject to District and national criminal history background checks. The applicant shall submit an application to the Office, in a form determined by the Office, for fingerprints for a national criminal records check by the Metropolitan Police Department and the Federal Bureau of Investigation of all individuals required to be named in the application and a signed authorization of each individual submitting fingerprints for the release of information by the Metropolitan Police Department and the Federal Bureau of Investigation.

“(2) In the case of an application for license renewal, the Office may require additional background checks.

“(d) The Office shall require proof of good standing pursuant to D.C. Official Code § 29-102.08 of an applicant for a license pursuant to this title and may, in addition, require certification that the Citywide Clean Hands Database indicates that the proposed licensee is current with its District taxes.”.

“(e) Proprietary information, trade secrets, financial information, and personal information about a person in an application submitted to the Office pursuant to this title shall not be a public record and shall not be made available under the Freedom of

Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), or any other law.

“(f)(1) A retailer shall display its license as required by section 412(d) and shall make the license immediately available for inspection upon request by an employee of the Office, the Metropolitan Police Department, or ABRA.

“(2) When present at a licensed establishment, an employee of a distributor shall carry a copy of its license and make it readily available for inspection by an employee of the Office, the Metropolitan Police Department, or ABRA.

“(g) A licensed establishment that applied for and obtained a game of skill machine endorsement from the ABC Board pursuant to D.C. Official Code § 25-113a(e) prior to the effective date of this act shall have 180 calendar days after the effective date of this act to come into compliance with this title and the rules issued pursuant to this title. Failure to do so may result in the Office taking action against the licensed establishment in accordance with section 417 of this title.”

“Sec. 405. License prohibitions; suspensions and revocation of licenses.

“(a) An applicant convicted of a disqualifying offense shall not be licensed. The Office shall define disqualifying offenses by a rule issued pursuant to this title.

“(b) No Office or ABRA employee, or immediate family member of an Office or ABRA employee, may be an applicant for, have an interest in, or obtain a license issued pursuant to this title.

“(c) Failure of an applicant or licensee to notify the Office of a change to the information provided in its application for license or renewal within 10 days after the

change may result in the Office suspending or revoking the licensee's license, denying the applicant's license, and issuing a fine.

“(d)(1) The Office shall not grant a license pursuant to this title, and shall revoke a license previously granted, if evidence satisfactory to the Office exists that the applicant or licensee has:

“(A) Knowingly made a false statement of a material fact to the Office;

“(B) Had a license revoked by a governmental authority responsible for regulation of games of skill;

“(C) Been convicted of a felony and has not received a pardon or been released from parole or probation for at least 5 years; or

“(D) Been convicted of a gambling-related offense or a theft or fraud offense.

“(2) The Office may deny a license to an applicant or suspend or revoke a license of a licensee if the applicant or licensee:

“(A) Has not demonstrated, to the satisfaction of the Office, financial responsibility sufficient to adequately meet the requirement of the proposed activity;

“(B) Is not the true owner of the licensed business or has not disclosed the existence or identity of another individual or entity that has an ownership interest in the business; or

“(C) Is a corporation that sells more than 5% of a licensee's voting stock, more than 5% of the voting stock of a corporation that controls the licensee, or sells

a licensee's assets, to an individual or entity not already determined by the Office to have met the qualifications of a licensee pursuant to this title, or is a non-corporate entity where a person not already determined by the Office to have met the qualifications of a licensee pursuant to this title holds more than 10% interest in the non-corporate entity.”.

“Sec. 406. Conflicts of interest.

“(a) Before issuing, authorizing the transfer to a new owner of, or renewing a license, the Office shall determine that the applicant is not disqualified because of a conflicting interest in another license. In making this determination, the following standards shall apply:

“(1) No licensee under a supplier's license shall hold a license in another license issued under this title.

“(2) No licensee under a distributor's license shall hold a license in another license issued under this title; provided that the holder of a distributor's license may also hold a manufacturer's license.

“(3) No licensee under a manufacturer's license shall hold another license issued under this title; provided that the holder of a manufacturer's license may also hold a distributor's license.

“Sec. 407. Manufacturer licensure.

“(a) A person may not manufacture a game of skill machine in the District unless the person has a valid manufacturer's license issued under this title. A manufacturer may only sell game of skill machines for use in the District to persons having a valid distributor's license.

“(b) A person applying for a manufacturer’s license shall do so on a form proscribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Any other information the Office considers necessary.

“(c) In considering whether to approve an application for a distributor’s license, the Office may consider evidence the distributor submitted to the Office of an existing license as a distributor from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

“(d) An applicant for a manufacturer’s license shall pay a nonrefundable application fee of \$10,000 with the application.

“(e) A manufacturer’s license shall be renewed annually; provided that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a \$5,000 renewal fee.

“Sec. 408. Distributor licensure.

“(a) A person may not buy, sell, distribute, lease, maintain, market, or service a game of skill machine or a major component or part of a game of skill machine for

distribution in the District unless the person has a valid distributor's license issued by the Office.

“(b) A licensed distributor may buy, sell, distribute, lease, maintain, market, or service a game of skill machine or any major component or part of a game of skill machine for distribution in the District to a licensed establishment (ABRA) that possesses a retailer's license from the Office (OLG) and a game of skill machine endorsement (ABRA) from the ABC Board pursuant to D.C. Official Code § 25-113a(e). No distributor may give anything of value, including a loan or financing agreement, to a licensed establishment as an incentive or inducement to locate a game of skill machine in the establishment.

“(c) A person applying for a distributor's license shall do so on a form proscribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant's financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Any other information the Office considers necessary.

“(d) In considering whether to approve an application for a distributor's license, the Office may consider evidence the distributor submitted to the Office of an existing license as a distributor from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

“(e) An applicant for a distributor’s license shall demonstrate that the equipment, system, or device that the applicant plans to offer to retailers conform to standards established pursuant to this title, the rules issued pursuant to this title, and other applicable law.

“(f) An applicant for a distributor’s license shall pay a nonrefundable application fee of \$10,000 with the application.

“(g) A distributor’s license shall be renewed annually; provided that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a \$5,000 renewal fee.

“(h) A distributor shall submit to the Office, at such times as are established by the Office by rule, a list of all game of skill machines sold, delivered to, or offered to a retailer. All such equipment shall be tested and approved by an independent testing laboratory approved by the Office.

“Sec. 409. Supplier licensure.

“(a) A person shall not sell parts or components for a game of skill machine, or provide services related to a game of skill machine, unless the person has a valid supplier’s license. A supplier may only provide parts and components for a game of skill machine, or provide services related to a game of skill machine, for use in the District to a person having a valid manufacturer’s or distributor’s license.

“(b) A person applying for a supplier’s license shall do so on a form proscribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Any other information the Office considers necessary.”.

“(c) In considering whether to approve an application for a supplier’s license, the Office may consider evidence the supplier submitted to the Office of an existing license as a supplier from another jurisdiction that the Office has determined has licensing requirements similar to those required by the District.

“(d) An applicant for a supplier’s license shall demonstrate that the equipment, components, or parts that the applicant plans to offer to manufacturers or distributors conform to standards established pursuant to this title, rules issued pursuant to this title, and other applicable law.

“(e) An applicant for a supplier’s license shall pay a nonrefundable application fee of \$2,000 with the application.

“(f) A supplier’s license shall be renewed annually; provided that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a \$1,000 renewal fee.

“(g) A supplier shall submit to the Office, at such times as are established by the Office by rule, a list of all components or parts for game of skill machines sold, delivered

to, or offered to a manufacturer or operator. All such equipment shall be tested and approved by an independent testing laboratory approved by the Office.

“Sec. 410. Retailer licensure; registration of game of skill machines.

“(a) A person may not own, lease, maintain, install, make available, or offer or allow another to play a game of skill machine in the District unless the person:

“(1) Is a licensed establishment (ABRA);

“(2) Possesses a retailer’s license from the Office and a game of skill machine endorsement from ABRA in accordance with D.C. Official Code § 25-113a(e); and

“(3) Has entered into a written use agreement with a licensed distributor for the placement or installation of a game of skill machine or machines on the licensed premises.

“(b) Each game of skill machine located on a retailer’s licensed premises shall be registered with the Office by the retailer before the game of skill machine is installed on the licensed premises. A retailer may register and operate up to 5 game of skill machines on the licensed premises at any time. The registration fee for each game of skill machine shall be \$100. The Office shall issue to the retailer a registration sticker for placement on each registered game of skill machine.

“(c) A person shall apply for a retailer’s license on a form proscribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Any other information the Office considers necessary.

“(d) An applicant for a retailer’s license shall pay a nonrefundable application fee of \$300 with the application.

“(e) A retailer’s license shall be renewed annually; provided that the licensee continued to comply with the statutory and regulatory requirements and pays upon submission of its renewal application a \$300 renewal fee.

“(f) The Office shall require a retailer to be bonded, in such amounts and in such manner as determined by the Office, and to agree, in writing, to indemnify and hold harmless the District government against any and all actions, claims, and demands of whatever kind or nature that the District may incur by reason of or in consequence of issuing the retailer’s license to the retailer.

“(g)(1) Game of skill machines shall not be offered or allowed to be played in the District other than at an establishment licensed as a retailer.

“(2) A person convicted of violating this subsection shall be subject to a fine not to exceed \$5,000 or imprisonment not to exceed 6 months, or revocation of the retailer’s license, or all of the foregoing.

“Sec. 411. Minimum requirements of game of skill machines.

“(a)(1) Every game of skill machine offered for play shall first be tested and approved pursuant to this title and the rules issued pursuant to this title.

“(2) The Office shall utilize the services of an accredited independent outside testing laboratory to test and assess each game of skill machine.

“(3) The applicant shall be responsible for paying the fees associated with testing the game of skill machines.

“(b) Every game of skill machine offered in the District shall meet the minimum standards approved by the Office, including the following:

“(1) The game of skill machine must conform to all requirements of federal law and regulations, including the Federal Communications Commission’s Class A Emissions Standards;

“(2) The game of skill machine shall pay out a mathematically demonstrable percentage during the expected lifetime of the machine of all amounts played, which shall not be less than 80%;

“(3) The game of skill machine shall display an accurate representation of the game outcome;

“(4) The game of skill machine shall not automatically alter pay tables or any function of the game of skill machine based on an internal computation of a hold percentage or have a means of manipulation that affects the random selection process or probabilities of winning a game;

“(5) The game of skill machine shall not be negatively affected by static discharge or other electromagnetic inference;

“(6) The game of skill machine shall be capable of displaying the following during idle status: “power reset”; “door open”; or “door closed”;

“(7) The game of skill machine shall be able to detect and display the game’s complete play history and winnings for the previous 10 games;

“(8) The theoretical payback percentage of a game of skill machine shall not be capable of being changed without making a hardware or software change in the machine itself;

“(9) The game of skill machine shall be designed so that the replacement of parts or modules required for normal maintenance does not necessitate replacement of the electromechanical meters;

“(10) The game of skill machine shall contain a non-resettable meter which shall be located in a locked area of the machine that is accessible only by a key;

“(11) The game of skill machine shall be capable of storing the meter information required by paragraph (10) of this subsection for a minimum of 180 days after a power loss to the machine;

“(12) The game of skill machine shall have accounting software that keeps an electronic record that includes:

“(A) Total cash inserted into the game of skill machine;

“(B) The value of winning tickets awarded to players by the game of skill machine;

“(C) The total credits played on the game of skill machine;

“(D) The total credits awarded by the game of skill machine; and

“(E) The payback percentage credited to players of the game of skill machine;

“(13) The game of skill machine shall be linked to a centralized accounting system which will allow the Office to activate or deactivate the game of skill machine from the centralized system remotely; and

“(14)(A) The game of skill machine shall be linked to a centralized accounting system in accordance with section 415 by which all approved game of skill machines shall be connected for purposes of accounting and reporting to the Office.

“(B) A manufacturer of a game of skill machine that has been approved to distribute and install a game of skill machine in the District shall be allowed one year from the effective date of this title to come into compliance with this paragraph.

“(c) The Office may issue rules to establish additional licensing and registration requirements for purposes of preserving the integrity and security of game of skill machines in the District.

“Sec. 412. Registration; display of registration sticker, license, and warning sign; locations of game of skill machines.

“(a) A retailer shall register each of its game of skill machines in the District with the Office before the game of skill machine may be installed at the licensed establishment.

“(b) A retailer shall locate its game of skill machines for play only in specific locations approved by the ABRA within the retailer’s licensed establishment.

“(c) A retailer shall affix and maintain a registration sticker issued by the Office to the game of skill machine at all times the game of skill machine is located at the

establishment. If the registration sticker is damaged, destroyed, lost, or removed, the retailer shall pay the Office \$75 for a replacement registration sticker.

“(d) A retailer shall post both its retailer’s license and a warning sign, maintained in good repair and in a place clearly visible at the point of entry to the designated areas where the game of skill machines are located. The warning sign shall include:

“(1) The minimum age required to play a game of skill machine;

“(2) The contact information for the District’s gambling hotline; and

“(3) The contact information for the Office of Lottery and Gaming for purposes of filing a complaint against the manufacturer, supplier, distributor, or retailer.

“(e) Failure to display the registration sticker, license, or warning sign may result in the Office revoking or suspending the license or issuing a fine against the licensed establishment pursuant to section 417.

“Sec. 413. Cash award.

“(a) A game of skill machine shall not directly dispense cash awards or payments to a player. If, at the conclusion of the game, a player is entitled to a cash award, the game of skill machine shall dispense a ticket or voucher to the player. The ticket or voucher shall indicate:

“(1) The total amount of the cash award;

“(2) The time of day that the cash award was issued in a 24-hour format showing hours and minutes, the date, the terminal serial number, and the sequential number of the ticket or voucher; and

“(3) An encrypted validation number from which the validity of the cash award may be determined.

“(b) A retailer must allow a player to take the ticket or voucher to the owner of the licensed establishment or the owner’s designee, who must be located at the licensed establishment, for payment of the cash award.

“Sec. 414. Game of skill machine use by minors prohibited.

“(a) A licensee shall not permit a person under the age of 18 to use or play a game of skill machine.

“(b) The Office may suspend or revoke a license and issue a fine, in accordance with section 417, against a licensee that knowingly allows a person under the age of 18 to use or play a game of skill machine.

“Sec. 415. Centralized accounting system.

“(a) Within 365 days after the effective date of this title, the Office shall procure a centralized accounting system linked by a communications network through which all licensed game of skill machines shall connect for the purpose of accounting and reporting to the District.

“(b) By such date as shall be designated by the Office, all game of skill machines registered in the District shall be linked by a communications network to the centralized accounting system for purposes of monitoring and reading machine activities as provided for in this title or rules issued pursuant to this title. When the Office is satisfied with the operation of the centralized accounting system, it shall certify the effective status of the system and notify all retailers of the date by which the retailer’s game of skill machines must be linked to the centralized accounting system.

“(c) The centralized accounting system shall be designed and operated to allow the monitoring and reading of all game of skill machines for the purpose of compliance with

this title and rules issued pursuant to this title. The centralized accounting system shall be administered by the Office.

“(d) The centralized accounting system shall not provide for the monitoring or reading of personal or financial information concerning patrons of game of skill machines.

“(e) Employees and agents of a contractor or subcontractor of the Office that is engaged in building, operating, maintaining, or contracting to build, operate, or maintain the centralized accounting system, and the immediate family members of such employees and agents, shall be prohibited from obtaining a license under this title.

“(f) Unless a retailer’s license is cancelled, suspended, or revoked, nothing in this section shall authorize the Office to limit or eliminate a registered game of skill from the centralized accounting system.

“Sec. 416. Insurance.

“Each distributor shall maintain liability insurance on all game of skill machines that it places in a licensed establishment in an amount set by the Office by rule issued pursuant to this title.

“Sec. 417. Penalties.

“(a) In the event of a violation of this title or a rule issued pursuant to this title, the Office may:

“(1) Impose a fine of not more than \$50,000;

“(2) Revoke a licensee’s license; and

“(3) Suspend the licensee’s license for up to one year.

“(b) A person that has been fined or whose application has been denied, revoked, or suspended pursuant to this section shall have a right to a hearing before the Office and,

in the event of the Office's affirmation of the fine, denial, revocation, or suspension, the right to appeal the decision of the Office to the Superior Court of the District of Columbia.

“(c) The Office shall notify ABRA within 48 hours after the Office suspends or revokes a retailers license.

“Sec. 418. Authority of the Office.

“(a) The Office may enforce the provisions of this title with respect to licensees and with respect to any individual or entity not holding a license and offering a game of skill machine in violation of the provisions of this title or rules issued pursuant to this title.

“(b) Subject to subsection (c) of this section, the Office and the Metropolitan Police Department may issue citations for civil violations of this title as set forth in rules issued pursuant to this title.

“(c) A citation for a violation for which the penalty includes the suspension or revocation of a license shall be issued by the Office as a result of an investigation carried out by the Office.

“(d) The Office may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. The Office may seize evidence that substantiates a violation under this title, which shall include seizing the tickets, vouchers, or cash awards issued to a person under the age of 18 and fake identification documents used by a person under the age of 18.

“(e) The Office may seize a game of skill machine license from an establishment if:

“(1) The game of skill machine license has been suspended, revoked, or cancelled by the Office;

“(2) The business is no longer in existence; or

“(3) The business has been closed by another District government agency.

“Sec. 419. Investigations and inspections.

“(a) The Office may conduct investigations, searches, seizures, and other duties authorized by this title and rules issued pursuant to this title.

“(b) An applicant for a license, and each licensee, shall allow any member of the Office, any ABRA investigator, or any member of the Metropolitan Police Department full opportunity to examine, at any time during business hours:

“(1) The location on the premises where game of skill machines are available to play; and

“(2) The books and records of the licensee or applicant.

“Sec. 420. Unlawful acts; action by the Attorney General.

“(a)(1) No manufacturer, distributor, supplier, licensed establishment, or employee or agent of a manufacturer, distributor, supplier, or licensed establishment shall intentionally make a false or misleading representation concerning an individual’s chances, likelihood, or probability of winning at playing a game of skill machine.

“(2) An individual or entity claiming to be aggrieved by a fraudulent act or a false or misleading statement by a licensee shall have a cause of action in a court of competent jurisdiction for damages and any legal or equitable relief as may be appropriate.

“(b) The Attorney General for the District of Columbia, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia to enjoin an individual or entity or to seek a civil penalty of up to \$50,000 for a violation of this title or a rule issued pursuant to this title.

“Sec. 421. Taxation of game of skill machines.

“(a)(1) On or before the 20th calendar day of each month, each retailer shall:

“(A) File a return, on forms and in the manner prescribed by the CFO, with the CFO indicating the amount of gross game of skill machine revenue for the retailer’s game of skill machines for the preceding calendar month; and

“(B) Pay to the District of Columbia Treasurer 10% of the gross game of skill machine revenue for the preceding month.

“(b) All funds owed to the District under this section shall be held in trust within the boundaries of the District for the District by the retailer until the funds are paid the District of Columbia Treasurer.

“(c) A retailer that falsely reports or fails to report the amount due as required by this section may be fined or imprisoned in accordance with title 22 of the District of Columbia Code and shall have its retailer’s license revoked.

“(d) Each retailer shall keep a record of the gross game of skill machine revenue, awards, and net income of each game of skill machine in such form as the Office may require.

“(e) A payment required by this section that is not remitted when due shall be assessed a late payment penalty in amount set forth in § 47-4213.

“(f) In the case of an underpayment of the tax set forth in this section, there shall be added to the tax an amount of interest determined by applying the underpayment rate set forth in § 47-4201 to the amount of the underpayment for the period of the underpayment.

“Sec. 422. Deposit of license fees.

“All fees collected under sections 406 through 409 shall be deposited in the Lottery, Gambling, and Gaming Fund, established by section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 36-601.12).”.

Sec. 6022. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-101 is amended as follows:

(1) A new paragraph (22B) is added to read as follows:

“(22B) “Game of skill machine” has the meaning set forth in section 401(5) of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia.”.

(2) A new paragraph (53A) is added to read as follows:

“(53A) “Voucher” means a ticket issued by a game of skill machine that is redeemable for cash winnings.”.

(b) Section 25-113a is amended by adding a new subsection (e) to read as follows:

“(e)(1) A licensee under a manufacturer’s license class A or B holding an on-site sales and consumption permit, or an on-premises retailer’s license, class C/R, D/R, C/H, D/H, C/T, D/T, C/N, D/N, C/X, or DX, shall obtain a game of skill machine endorsement from the Board in order to offer a game of skill machine on the licensed premises.

“(2)(A) A game of skill machine shall not be placed on outdoor public or private space; provided, that the Board, in its discretion, may allow for the placement of a game of skill on outdoor public or private space if, in the Board’s determination, activity associated with the game of skill machine is:

“(i) Not visible from a public street or sidewalk;

“(ii) Adequately secured against unauthorized entrance; and

“(iii) Accessible only by patrons from within the establishment.

“(B) Subparagraph (A) of this paragraph shall not apply to a licensee operating a passenger-carrying marine vessel in accordance with D.C. Official Code § 25-113(h).”.

(c) Section 25-401 is amended by adding a new subsection (e) to read as follows:

“(e) An applicant for a game of skill machine endorsement shall submit to the Board with its application:

“(1) A diagram of where the game of skill machines will be placed on the licensed premises; and

“(2) The name of the manufacturer and distributor of the game of skill machines and documentation reflecting that the manufacturer and distributor are licensed to do business and pays taxes in the District of Columbia.”.

(d) Section 25-508 is amended to read as follows:

“25-508. Minimum fee for permits, and manager’s license, and endorsement.

“The minimum fees for permits, manager’s license, and endorsement shall be as follows:

“Tasting permit for class A licensees	\$100/year
“Importation permit	\$5
“Manager’s license	\$100/year
“On-site sales and consumption permit	\$1,000/year
“Game of skill machine endorsement	\$200”.

(e) The table of contents of Chapter 7 is amended by adding a new section designation to read as follows:

“25-786. Game of skill machine operating requirements.”.

(f) Section 25-763 is amended by adding a new subsection (g) to read as follows:

“(g) Exterior signs advertising game of skill machines shall be prohibited on the licensed establishment.”.

(g) Section 25-765 is amended by adding a new subsection (c) to read as follows:

“(c) Advertisements related to game of skill machines shall not be placed on the interior or exterior of a window or on the exterior of a door that is used to enter or exit the licensed establishment.”.

(h) A new section 25-786 is added to read as follows:

“§ 25-786. Game of skill machine operating requirements

“A licensee with a game of skill machine endorsement shall:

“(a) Not allow or permit a person under 18 years of age to play a game of skill machine and shall designate an employee to regularly monitor the designated area where game of skill machines are played to ensure that no person under 18 years of age is playing or attempting to play a game of skill machine;

“(b) Verify that each person playing a game of skill machine is lawfully permitted to do so by checking the person’s government-issued identification document upon entry into either the licensed establishment or the designated area where the game of skill machines are located and where the person seeks to cash out his or her winnings, if any; except, that the failure of a licensee to verify a person’s identification shall not be a

violation of this paragraph if the person whose identification was not checked is 18 years of age or older;

“(c) Not allow or permit a person that appears intoxicated or under the influence of a narcotic or other substance to play a game of skill machine;

“(d) Not share revenue from the licensee’s sale of alcohol with a manufacturer or distributor of a game of skill machine, unless approved by the Board as an owner of the license;

“(e) Not allow or permit the placement of a game of skill machine on an outdoor public or private space that has not been approved by the Board;

“(f) Not allow or permit the placement of a game of skill machine outside of the designated areas contained on the applicant’s diagram provided as part of the license application or outside the areas approved by the Board;

“(g) Not have more than 5 game of skill machines on the licensed premises; and

“(h) Install security cameras that are operational and record for 30 days, in the areas designated for game of skill machines, near the cash register or terminal where cash winnings of game of skill machines are processed, and where the licensee’s money is stored.”.

(i) Section 25-801 is amended by adding a new subsection (h) to read as follows:

“(h) An ABRA investigator may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. An ABRA investigator may seize fake identification used by a person under 18 years of age and may seize such records related to a game of skill machine as the investigator deems appropriate to investigate the playing of a game of skill machine by a person under 18 years of age.”.

Sec. 6023. Section 865 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-1704), is amended as follows:

(a) The existing text is designated as subsection (a).

(b) A new subsection (b) is added to read as follows:

“(b) It shall be unlawful to install or operate a game of skill machine in the District except as permitted by D.C. Official Code § 25-113a(e). Whoever shall install or operate a game of skill machine at a location not licensed under Title 25 of the D.C. Official Code shall be punished by imprisonment for a term of 180 days or fined not more than the amount set forth in § 22-3571.01, or both.”.

14. TITLE VI. SUBTITLE F. ALCOHOLIC BEVERAGE SALES AND DELIVERY

a. Purpose, Effect, and Impact on Existing Law

The Alcoholic Beverage Control Board (Board) currently prohibits on-premises retailers (including manufacturers with an on-site sales and consumption permit) from serving alcoholic beverages between the hours of 2 a.m. and 8 a.m. Monday through Friday and between 3 a.m. and 8 a.m. on Saturday and Sundays. The Board provides some exceptions to these rules to allow sales until 4 a.m. and 24-hour operations on and around holidays and other special events. The Board also restricts the sale and delivery of alcohol for off-premises consumption to between the hours of 7 a.m. and midnight.

The subtitle changes the restricted hours for on-premises retailers to allow those retailers to begin alcoholic beverage sales at 6 a.m. The subtitle increases the expanded hours exceptions to allow for sales until 4 a.m. and 24-hour operations to include the Saturday and Sunday adjacent to, prior to, or following Veterans Day, Christmas Day, and Emancipation Day. The subtitle also increases the expanded hours opportunity around inauguration in January 2021 from January 15th to the 21st by nine days to January 9th to the 24th.

The subtitle also expands the sales and delivery hours for off-premises consumption for wholesalers, manufacturers, and off-premises retailers. The licensees will now be able to sell and deliver for off-premises consumption between the hours of 6 a.m. and 1 a.m.

In addition to the current allowances for on- and off-premises sales, consumption, and delivery, the District established additional alcohol delivery options for licensed establishments during the 2020 health emergency declaration. Through emergency legislation, the Council authorized on-premises retailers to deliver and offer for take-out alcohol in closed containers with the purchase of food items. The emergency and temporary authorizations for alcohol take-out and delivery do not require Board approval but do require ABRA to provide written authorization to each retailer requesting to operate under the new allowances. The emergency and temporary acts also allowed on-premises retailers located at the Walter E. Washington Convention Center (Convention Center) to register for alcohol take-out and delivery through ABRA. These locations typically receive their operating authorizations from the Washington Convention and Sports Authority (WCSA), and not the Board.

The subtitle continues these emergency and temporary authorizations on a permanent basis and establishes a timeframe of 6 a.m. to 1 a.m. for registered retailers to provide take-out and delivery alcohol, consistent with the subtitle's allowances for off-premises retailer's sales and delivery hours. The subtitle also requires an on-premise retailer to obtain Board approval and apply for a license endorsement for take-out and delivery of alcohol after March 31, 2021, unless it was registered with and approved by ABRA prior to April 1, 2021. Retailers registered with ABRA prior to April 1, 2021 can receive the endorsement – without application – through a request to the Board and payment of the endorsement fee, which is set at \$200, if they do so prior to March 31, 2021. The subtitle extends all of these allowances and restrictions to retailers located at the Convention Center.

b. Committee Reasoning

The Committee accepts the Mayor's proposed subtitle but cautions the agency on permanently extending off-premise privileges to on-premise retailers. The Committee advises ABRA to assess whether there would be disparate impact on off-premise retailers who have off-premise licenses solely for off-premise purposes. The Committee also advises ABRA to have protocols in place to maintain peace, welfare, and safety in District since the subtitle would be extending time period for on- and off-premise sales.

The Committee anticipates increased revenue that would be generated by this subtitle. The subtitle increases the hours for both on- and off-premises alcohol establishments to sell and deliver alcohol to customers and expands the extended hours program to include the Saturday and Sunday around additional holidays and additional days around the 2021 presidential inauguration. The District already collects a ten percent tax on both on- and off-premise alcohol sales, so the enhanced opportunities for sale and delivery will increase sales tax collections. The subtitle's provisions will generate \$787,000 in fiscal year 2021 and \$2.9 million over the four-year financial plan period. Sales tax collections from on-premises retailers offering alcohol for take-out and delivery began in fiscal year 2020 under the emergency and temporary laws and making these allowances permanent is expected to substitute for other projected sales.

c. Section-by-Section Analysis

Sec. 6051. States the short title.

Sec. 6052. Amends Chapter 7 of Title 25 of the D.C Official Code to extend off-premise privileges to on-premise establishments, extend the hours of operation for on- and off-premise retailers, allow commercial street frontage at the Walter E. Convention Center to sell food and alcoholic beverages for carry-out and delivery.

d. Legislative Recommendation for the Committee of the Whole

Sec. 6051. Short title.

This subtitle may be cited as the “Alcoholic Beverage Sales and Delivery Amendment Act of 2020”.

Sec. 6052. Chapter 7 of Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-112 is amended by adding a new subsection (h) to read as follows:

“(h)(1) A retailer with commercial street frontage at the Walter E. Washington Convention Center that sells food and is approved by the Washington Convention and Sports Authority to sell alcoholic beverages for on-premises consumption (“Convention Center food and alcohol business”) that registers as a Convention Center food and alcohol business with the Board and receives written authorization from ABRA may sell beer, wine, or spirits in closed containers to individuals for carry out and may deliver beer, wine, or spirits in closed containers to consumers in the District, pursuant to §§ 25-113(a)(3)(C) and 25-113a(h); provided, that such carry out and delivery orders are accompanied by one or more prepared food items.

“(2) Board approval shall not be required for a registration under this subsection that occurs before April 1, 2021.

“(3) After March 31, 2021, a Convention Center food and alcohol business that does not hold a valid registration under this subparagraph shall be required to obtain a carry out and delivery license as set forth in § 25-113a(h) in order to sell beer, wine, or spirits in closed containers to customers to carry out and to sell and deliver to the homes of District residents beer, wine, or spirits in closed containers for delivery .

“(4) A Convention Center food and alcohol business that has been authorized to offer alcoholic beverages for carry out and delivery in accordance with paragraph (1) of this subsection may only offer alcoholic beverages for carry out and delivery between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.”.

(b) Section 25-113(a)(3)(C) is amended to read as follows:

“(C) An on-premises retailer’s licensee, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, that registers with the Board and receives written authorization from ABRA may sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week; provided, that each such carry out or delivery order is accompanied by one or more prepared food items. Board approval shall not be required for a registration under this subparagraph that occurs prior to April 1, 2021. After March 31, 2021, an on-premises retailer that does not hold a valid registration under this subparagraph shall be required to obtain a carry out and delivery endorsement as set forth in § 25-113a(g) in order to sell for carry out and deliver alcoholic beverages.”.

(c) Section 25-113a is amended by adding new subsections (g) and (h) to read as follows:

“(g)(1) Effective April 1, 2021, a licensee under an on-premises retailer’s license, class C/R, D/R, C/T, D/T, C/H, D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, shall obtain a carry out and delivery endorsement from the Board to be eligible to sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District.

“(2) Carry out sales and delivery shall be authorized under paragraph (1) of this subsection only between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.

“(3) Each carry out or delivery order of an alcoholic beverage pursuant to paragraph (1) of this subsection shall be accompanied by one or more prepared food items.

“(4) The annual fee for a carry out and delivery endorsement shall be established by the Board in an amount not less than \$200.

“(5) An on-premises retailer’s licensee that has registered with the Board under § 25-113(a)(3)(C) before April 1, 2021 (a “registered licensee”), shall not be required to apply with the Board for an endorsement under this subsection, and the registered licensee shall be granted the carry out and delivery endorsement upon request to the Board, if the registered licensee makes the request and pays the annual fee required by paragraph (4) of this subsection by March 31, 2021.

“(h)(1) Effective April 1, 2021, a Convention Center food and alcohol business that has registered with the Board under § 25-112(h), shall obtain a carry out and delivery license from the Board to be eligible to sell beer, wine, or spirits in closed containers to individuals for carry out, or deliver beer, wine, or spirits in closed containers to consumers in the District.

“(2) Carry out sales and delivery shall be authorized under paragraph (1) of this subsection only between the hours of 6:00 a.m. and 1:00 a.m., 7 days a week.

“(3) Each carry out or delivery order of an alcoholic beverage pursuant to paragraph (1) of this subsection shall be accompanied by one or more prepared food items.

“(4) The annual fee for a carry out and delivery license shall be established by the Board in an amount not less than \$200.

“(5) A Convention Center food and alcohol business that has registered with the Board under § 25-112(h) before April 1, 2021 (a “registered Convention Center food and alcohol business”), shall not be required to apply with the Board for a license under this subsection, and the registered Convention Center food and alcohol business shall be granted a carry out and delivery license upon request to the Board, if the registered Convention Center food and alcohol business makes the request and pays the annual fee required by paragraph (4) of this subsection by March 31, 2021.

“(6) Beginning June 30, 2022, and each year thereafter, ABRA shall submit an annual report to the Council on the outcomes and effectiveness of this section including but not limited to the number of on-premise licensees participating in the carry-out and delivery option, the number of on- and off-premise retailer licensees that may have closed after the carry-out and delivery option was implemented, and any correlation in the decline of alcoholic beverage sales for off-premise licensees after the carry-out and delivery option was implemented.”.

(a) Section 25-721 is amended as follows:

(1) Subsection (a-1) is amended by striking the phrase “7:00 a.m. and 12:00 a.m.” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

(2) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “2:00 a.m. and 8:00 a.m.” and inserting the phrase “2:00 a.m. and 6:00 a.m.” in its place.

(B) Paragraph (2) is amended by striking the phrase “3:00 a.m. and 8:00 a.m.” and inserting the phrase “3:00 a.m. 6:00 a.m.” in its place.

(3) Subsection (d) is amended by striking the phrase “7:00 a.m. and midnight” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

(b) Section 25-722 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “7:00 a.m. and midnight” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

(2) Subsection (b) is amended by striking the phrase “7:00 a.m. and midnight” and inserting the phrase “6:00 a.m. and 1:00 a.m.” in its place.

(b) Section 25-723 is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “2:00 a.m. and 8:00 a.m.” and inserting the phrase “2:00 a.m. and 6:00 a.m.” in its place.\

(B) Paragraph (2) is amended by striking the phrase “3:00 a.m. and 8:00 a.m.” and inserting the phrase “3:00 a.m. and 6:00 a.m.” in its place.

(2) Subsection (c)(1) is amended as follows:

(A) Subparagraph (C) is amended by striking the word “and”.

(B) Subparagraph (D) is amended by striking the period and inserting the phrase “; and” in its place.

(C) A new subparagraph (E) is added to read as follows:

“(E) The Saturday and Sunday adjacent to Veterans Day, Christmas Day, and District of Columbia Emancipation Day as set forth in § 1-612.02(a); except, that if the holiday under this subparagraph occurs on a Tuesday, the extended hours shall occur on the preceding Saturday and Sunday and if a holiday under this subparagraph occurs on a Wednesday or Thursday, the extended hours shall occur on the following Saturday and Sunday.”.

(3) Subsection (e)(1) is amended by striking the phrase “2017, January 14 through January 22” and inserting the phrase “2021, January 9 through January 24” in its place.

15. SUBTITLE A. PERSONAL PROPERTY TAX AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

The subtitle clarifies the definition of tangible personal property to include the value of prewritten and canned software integrated into business equipment and not commonly available separately. The subtitle will apply as of July 1, 2021.

The subtitle will increase revenue for the District by \$935,000 in Fiscal Year 2021 and \$3.9 million over the financial plan.

Revenue Gained from Personal Property Tax Amendment Act of 2020 (\$ thousands)					
	FY 2021	FY 2022	FY 2023	FY 2024	Total
Increased Property Tax Revenue	\$935	\$958	\$982	\$1,007	\$3,882

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it generates revenue for the District.

c. Section-by-Section Analysis

Sec. 7001. States the short title.

Sec. 7002. Amends D.C. Official Code §§ 47-1508 and 47-1521 to include to the list of tangible personal properties that can be taxed, the value of prewritten and canned software integrated into business equipment that cannot be commonly available separately.

Sec. 7003. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 7001. Short title.

This subtitle may be cited as the “Personal Property Tax Amendment Act of 2020”.

Sec. 7002. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1508 is amended by adding a new paragraph (13) to read as follows:

“(13)(A) Computer software, unless:

“(i) The software is incorporated as a permanent component of a computer, machine, piece of equipment, or device, or of real property, and the software is not commonly available separately; or

“(ii) The cost of the software is included as part of the cost of a computer, machine, piece of equipment, or device, or of the cost of real property on the books or records of the taxpayer.

“(B) This paragraph shall not be construed to affect the value of a machine, device, piece of equipment, or computer, or the value of real property, or to affect the taxable status of any other property subject to tax under this title.”.

(b) Section 47-1521 is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) “Computer software” means a set of statements or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.”.

(3) Paragraph (4) is amended by striking the phrase “goods and chattels” and inserting the phrase “goods and chattels, including computer software,” in its place.

Sec. 7003. Applicability.

This subtitle shall apply as of July 1, 2021.

1. SUBTITLE B. UNINCORPORATED BUSINESS FRANCHISE TAX AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

The subtitle expands the definition of taxable income to include gains from a sale or other disposition of assets, even if such sale results in the termination of an unincorporated business. The subtitle applies as of January 1, 2021.

The subtitle will increase revenue by \$1.1 million in Fiscal Year 2021 and \$11 million over the financial plan.

Revenue Gained from Unincorporated Business Tax Amendment Act of 2020 (\$ thousands)					
	FY 2021	FY 2022	FY 2023	FY 20 24	Total
Increased Income Tax Revenue	\$1,100	\$3,300	\$3,300	\$3, 300	\$11,000

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it generates revenue for the District.

c. Section-by-Section Analysis

Sec. 7011. States the short title.

Sec. 7012. Amends D.C. Official Code § 47-1808.02(1) to expand the definition of taxable income.

Sec. 7013. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 7011. Short title.

This subtitle may be cited as the “Unincorporated Business Tax Amendment Act of 2020”.

Sec. 7012. Section 47-1808.02(1) of the District of Columbia Official Code is amended by inserting the sentence “Taxable income shall include gain from the sale or other disposition of any assets, including tangible assets and intangible assets, including real property and interests in real property, in the District, even when such a sale or other disposition results in the termination of an unincorporated business.” at the end.

Sec. 7013. Applicability.

This subtitle shall apply as of January 1, 2021.

2. SUBTITLE C. BALLPARK REVENUE FUND EXCESS REVENUE AMENDMENT ACT OF 2020

a. **Purpose, Effect, and Impact on Existing Law**

The subtitle amends the allowed purposes for any revenue collected in the Ballpark Revenue Fund to include transfers to the District’s General Fund in Fiscal Years 2020, 2021 and 2022, provided sufficient revenue is first collected for debt service due on the Ballpark Revenue Bonds per bond covenants. The revenue dedicated to the Ballpark Revenue Fund includes utility gross receipts taxes, the Ballpark Fee, and sales taxes from sales of tickets, concessions, and merchandise at the stadium. The Subtitle is applicable as of August 1, 2020.

Amending the allowable uses of the Ballpark Revenue Fund will result in a \$25 million transfer in Fiscal Year 2020, a \$40 million transfer in Fiscal Year 2021, and a total of \$105 million over the financial plan. These transfers increase revenue available in Local Funds. In Fiscal Year 2023 and Fiscal Year 2024, any excess Ballpark Fund

revenue will be used to pay principal on Ballpark Revenue Fund bonds before it is due. Such bond defeasance is assumed in the District’s debt cap analysis.

Fiscal Impact of Ballpark Revenue Fund Excess Revenue Amendment Act of 2020 (\$ thousands)						
	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	Total
Transfer to Local Funds	\$25,000	\$40,000	\$40,000	\$0	\$0	\$105,000

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it generates revenue for the District.

c. Section-by-Section Analysis

Sec. 7021. States the short title.

Sec. 7022. Amends D.C. Official Code § 10-1601.02(d) to allow excess revenue collected in the Ballpark Revenue Fund to be deposited in the District General Fund.

Sec. 7023. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 7021. Short title.

This subtitle may be cited as the “Ballpark Revenue Fund Excess Revenue Amendment Act of 2020”.

Sec. 7022. Section 102(d) of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.02(d)), is amended by striking the phrase “due on the bonds.” and inserting the phrase “due on the bonds; provided, that any excess that accrues during Fiscal Year 2020, Fiscal Year 2021, or Fiscal Year 2022 shall be deposited in the unrestricted fund balance of the General Fund during the fiscal year in which it accrues.” in its place.

Sec. 7023. Applicability.

This subtitle shall apply as of August 1, 2020.

3. SUBTITLE X: FINANCIAL INSTITUTION FRANCHISE TAX AND TAX HAVEN CLARIFICATION AMENDMENT ACT OF 2020

a. **Purpose, Effect, and Impact on Existing Law**

The purpose of this subtitle is to modernize the District’s tax laws as they apply to “financial institutions” and “tax havens” by adopting the uniform definitions recommended by the Multistate Tax Commission.

b. **Committee Reasoning**

The Committee accepts the Mayor’s proposed subtitle because it provides clarity on the definitions of “financial institutions” and “tax havens.” There is no fiscal impact for this new title.

c. **Section-by-Section Analysis**

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-1801.04 to adopt a new definition of “financial institutions” and “tax havens.”

Sec. XXXX. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Financial Institution Franchise Tax and Tax Haven Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1801.04 is amended as follows:

(1) Subsection (20) is amended to read as follows:

“(20) “Financial institution” with respect to any tax imposed by this chapter means:

“(A) Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

“(B) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. §§21 et seq.;

“(C) A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(b)(1);

“(D) Any bank or thrift institution incorporated or organized under the laws of any state;

“(E) Any corporation organized under the provisions of 12 U.S.C. §§611 to 631.

“(F) Any agency or branch of a foreign depository as defined in 12 U.S.C. § 3101;

“(G) A state credit union the loan assets of which exceed \$50,000,000 as of the first day of its taxable year;

“(H) A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

“(I) Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in

paragraphs (A) through (H) of this subsection other than an insurance company taxable under § 31-3931.12, risk purchasing groups taxable under § 31-4109, surplus lines brokers taxable under § 31-2502.40(a), or hospital service and medical services plans taxable under § 31-3514.01;

“(J) A corporation or other business entity that derives more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a "finance lease" shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any "direct financing lease" or "leverage lease" that meets the criteria of Financial Accounting Standards Board Statement No. 13, "Accounting for Leases" or any other lease that is accounted for as a financing by a lessor under generally accepted accounting principles. For this classification to apply,

“(i) the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent (50%) requirement; and

(ii) gross income from incidental or occasional transactions shall be disregarded; or

“(K) Any other person or business entity, other than an insurance company taxable under §§ 31-3931.12 and 47-2608 , a risk purchasing groups taxable under § 31-4109, surplus lines brokers taxable under § 31-2502.40(a), or hospital service and medical services plans taxable under § 31-3514.01, which derives more than fifty percent (50%) of its gross income from activities that a person described in subsections (2)

through (8) and (10) above is authorized to transact. For the purpose of this subsection, the computation of gross income shall not include income from non-recurring, extraordinary items.

“(L) The Chief Financial Officer is authorized to exclude any person from the application of paragraph (K) upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in paragraphs (B) through (H) and (J) of this subsection.

(2) Subsection (49) is amended as follows:

(A) Paragraph (A) is amended is amended to read as follows:

“(A) “Tax haven” means a jurisdiction that, during the tax year in question has no or nominal effective tax on the relevant income and:

“(i) Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

“(ii) Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer’s correct tax liability, such as accounting records and underlying documentation, is not adequately available;

“(iii) Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

“(iv) Explicitly or implicitly excludes the jurisdiction’s resident taxpayers from taking advantage of the tax regime’s benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction’s domestic market; or

“(v) Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial/other services sector relative to its overall economy.

Sec. 70X3. Applicability.

This subtitle shall apply as of January 1, 2021.

4. SUBTITLE X: TAX DEDUCTION CLARIFICATION AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle clarifies several franchise and income tax deductions to conform to the tax law changes enacted by the Tax Cuts and Jobs Act of 2017, provide technical corrections, and address deductions over-used by out-of-state residents that own District businesses. For instance, § 47-1803.03(a)(8) corrects a previous amendment that incorrectly applied the limit of “15% of the adjusted gross income” which does not apply to corporations or unincorporated businesses; paragraph (11)(B) addresses provisions in the tax code whereby corporations and unincorporated business owned by non-District residents can no longer automatically claim a deduction of 30% of the net income of the business; paragraph (14)(A) clarifies the District’s application of §172 of the Internal Revenue Code as amended by the Tax Cuts and Jobs Act; and paragraph (16) provides a technical correction for a cross citation to the code.

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it is consistent with the Office of Tax Revenue’s (OTR) interpretation and implementation of tax statutes and it will provide necessary clarity for taxpayers.

c. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-1801.04 to adopt a new definition of “financial institutions” and “tax havens.”

Sec. XXXX. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Tax Deduction Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1803.03 is amended to read as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (8) is amended by striking the phrase “; provided, however, that such deductions shall be allowed only in an amount which in the aggregate of all such deductions does not exceed 15% of the adjusted gross income”.

(B) Paragraph (11)(B) is amended by striking the phrase “shall not exceed 30% of the net income of the business,” and inserting the phrase “shall not exceed 15% of the net income of the business, not including any capital gain.”

(C) Paragraph (14)(A) is amended by striking the phrase “apportioned District of Columbia net operating loss carryover” and inserting “80% of apportioned District of Columbia net operating loss carryover”.

(D) Paragraph (16) is amended by striking the term “§ 47-1801.4(33)” and inserting the term “§ 47-1801.04(46)”.

(2) The lead in language to Subsection (b) is amended by striking the phrase “the same (and to the same extent)” and inserting the phrase “the same and to the same extent (except as limited by § 164(b)(6)(B) of the Internal Revenue Code of 1986)”.

(b) Section 47-1803.02 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Subparagraph (C) is amended by striking the phrase “any trust distribution” and inserting the phrase “any trust distribution (including any loss)” in its place.

(ii) Subparagraph (P) is amended by striking the phrase “share in the income” and inserting the phrase “share in the income (or loss)” in its place.

Sec. 70X3. Applicability.

This subtitle shall apply as of January 1, 2021 except for Section 70X2(a)(2) which shall apply as of January 1, 2018.

5. SUBTITLE X: WAGE WITHHOLDING CLARIFICATION AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle will enable the District to create withholding tables and forms that align with the federal tables and forms. Under District law, employers making payments to any employee shall deduct and withhold a portion of those payments in accordance with the annual tables published by OTR. Under the current law, OTR is not permitted to use the federal standard deduction when creating these tables. (See D.C. Code § 47-1812.08(b)(1A)). Due this restriction, in the past, OTR has used the federal personal exemption to create the annual tables. The Tax Cuts and Jobs Act (P.L. 115-97) however, eliminated the personal exemption. As a result, the federal government uses the standard deduction to create the federal withholding tables. Since OTR cannot use the standard deduction to create the withholding tables, this has caused a large administrative burden

for OTR. Without accurate tables, employers have had difficulty determining the correct amount of wages to withhold for District employees.

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it ensures that District residents at the end of the year have the accurate amount of taxes withheld. This means that there would be less room for OTR to commit error where District residents are subjected to paying larger than expected tax bill as well as penalties and interest at the end of the year.

c. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code Chapter 18 Title 47 to enable the District to create withholding tables and forms that align with the federal tables and forms

Sec. XXXX. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the “Wage Withholding Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1812.08 is amended as follows:

(1) By striking the phrase “the Council of the District of Columbia” and inserting the phrase “the Chief Financial Officer” in its place wherever it appears.

(2) By striking the phrase “the Mayor” and inserting the phrase “the Chief Financial Officer” in its place wherever it appears.

(3) Subsection (a) is amended by striking the phrase “5%” and inserting the phrase “the highest rate of tax set forth in § 47-1806.03,” in its place.

(4) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by repealing subparagraph (E).

(B) Paragraph (1A) is amended by striking the phrase “Notwithstanding which method of determination for withholding set forth in paragraph (1) of this subsection is used, no allowance for the standard deduction shall be permitted” and inserting the phrase “For the purposes of this subsection, the terms “allowance” and “exemption” shall have the same meaning” in its place.

(5) Subsection (c) is amended by adding a paragraph (8A) to read as follows: “(8A) For periods beginning after December 31, 2017, an employee shall be entitled to additional withholding exemptions under this subsection with respect to payment of wages equal to a number determined by dividing an amount promulgated by the Chief Financial Officer by the employee’s estimated itemized deductions.”

(6) Subsection (k) is amended by striking the phrase “of one- and one-half percent per month” and insert the phrase “set forth in § 47-4201” in its place.

Sec. 70X4. Applicability.

This subtitle shall apply as of January 1, 2021.

6. SUBTITLE X: SHARED RESPONSIBILITY CLARIFICATION AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle resolves a conflict in the Individual Health Insurance Requirement Amendment Act of 2018 to clarify that a taxpayer is not subject to criminal prosecution under Chapter 41 of Title 47 or liens and levies under Chapter 44 of title 47 for failure to pay the District shared responsibility. The District enacted the Individual Health Insurance Requirement Amendment Act of 2018 as part of the Fiscal Year 2019 Budget Support Amendment Act of 2018. The Act in part, imposed a requirement on District residents to maintain minimum essential health coverage or have an exemption. If a District resident (including dependents) does not have minimum essential health coverage or an exemption,

the resident will owe a shared responsibility payment. D.C. Official Code § 47-5103(a) provides, in relevant part that the “District shared responsibility payment shall be the same as the Federal shared responsibility payment under section 5000A of the Internal Revenue Code[.]” Section 5000A(g)(2) of the Internal Revenue Code provides, in relevant part, that a taxpayer shall not be subject to criminal penalties or to liens or levies for failure to pay the penalty. However, D.C. Official Code § 47-5108 provides, in relevant part, that a taxpayer who fails to pay the District shared responsibility payment imposed under § 47-5103 shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees, as provided in Chapter 41 (Criminal Provisions) and Chapter 44 (Collections) of Title 47.

This subtitle is being proposed to resolve the conflict between Section 5000A(g)(2) of the Internal Revenue Code and D.C. Official Code § 47-5108. It amends D.C. Official Code § 47-5108 by striking the reference to Chapter 41 and by amending the reference to Chapter 44 to include only the collection provisions that are consistent with Section 5000A(g)(2) of the Internal Revenue Code (i.e., the general collection provisions under Subchapter I and the refund offset provisions under Subchapter III).

The shared responsibility payment was imposed for tax years beginning on or after January 1, 2019. Accordingly, the applicability date is retroactive to January 1, 2019.

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it reassures District residents that they will not be subject to criminal prosecution or liens and levies if they fail to pay a shared responsibility payment.

c. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-5108 to resolve the conflict in the Individual Health Insurance Requirement Amendment Act of 2018 to clarify that a taxpayer is not subject to criminal prosecution under Chapter 41 of Title 47 or liens and levies under Chapter 44 of title 47 for failure to pay the District shared responsibility.

Sec. XXXX. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the “Shared Responsibility Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 51 of Title 47 is amended as follows:

(a) Section 47-5108 is amended to read as follows:

(1) By striking the phrase “Chapter 41”.

(2) By striking the phrase “Chapter 44” and inserting the phrase “Subchapters I and III of Chapter 44”.

Sec. 70X4. Applicability.

This subtitle shall apply as of January 1, 2019.

7. SUBTITLE X: TAX ADMINISTRATION CLARIFICATION AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle would allow OTR to: (1) administer tax provisions and correspond with taxpayers consistent with the Internet economy; (2) clarify the statute of limitations on refunds and lien priorities; (3) clarify that DCRA can change a vacant determination to avoid a hardship to the taxpayer; (4) clarify appeal procedures for omitted property assessments; (5) clarify that retained life estates are not subject to recordation and transfer taxes; (6) clarify that possessory interest taxes are billed semiannually just as real property taxes are billed; (7) provide for certification of workforce housing compliance by DHCD; (8) reinstate a tax sale if a redemption payment is declined by the drawer’s bank; (9) codify a conflict of interest provision barring certain DC employees from participating in the tax sale; (9) permit OTR to effectively defend property tax audits at the Real Property Tax Appeals Commission; and (10) to clarify that administrative remedies must be exhausted before appealing to Superior Court.

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it institutes best practices for OTR in the Internet economy, by allowing taxpayers to opt into electronic notices and billing. This will streamline and save resources for the agency. Furthermore, before appeals are commenced at Superior Court, best practices would dictate that administrative appeals must first be exhausted hence, this will clarify such prerequisite.

c. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends Chapter 8 of Title 47 to provide the requisite legal authority for OTR to safeguard District revenues from legal challenges, that relate in part to lien priorities and limitations on refunds. The section will also clarify provisions and implement procedures consistent with best practices and Federal procedures, including the exhaustion of administrative remedies before appealing to Superior Court.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Tax Administration Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 8 of Title 47 is amended as follows:

(a) In section 47-804, strike the phrase “first class mail.” and insert the phrase “first class

mail; provided that the owner and the Chief Financial Officer may elect to receive notice electronically or by such other means as agreed upon, and such notice shall be deemed to be properly served on the date of dispatch; provided further that either the owner or the Chief Financial Officer may rescind such election in the manner prescribed by the Chief Financial Officer.”.

(b) Section 47-811 is amended by adding a new subsection (e) to read as follows:

“(e) (1) A real property tax, including penalty and interest thereon, shall automatically become a lien on the real property on the date the real property tax was due and unpaid.

“(2) The lien for a real property tax shall be a prior and preferred claim overall other liens and shall be perpetual.

“(3) Payment for real property tax collected under this chapter shall be applied to each outstanding lien in order of its priority measured by the date that it became a lien under paragraph (1) of this subsection. The payment shall be applied to the lien in the following order: penalties; interest; and the original amount of real property tax.”.

(c) Section 47-811.02 is amended as follows:

(1) In subsection (a) at the end of the existing sentence add the following sentence: “Notwithstanding the foregoing, no credit shall be allowed unless it could be refunded under subsection (b) of this section.”

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “§ 47-825.01a(f)” and insert the phrase “§ 47-825.01a(f)(2)(A) or the Department of Consumer and Regulatory Affairs has corrected a classification under § 47-825.01a(f)(2)(B)” in its place.

(B) A new paragraph (6) is added to read as follows:

“(6) The Department of Consumer and Regulatory Affairs granted an exemption under section 6(b)(5) of an act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.06(b)(5)) for the applicable period for which the tax was paid.”.

(3) In subsection (f) add a new sentence at the end thereof to

read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

(c) Section 47-825.01a is amended as follows:

(1) Paragraph (c)(7) is amended as follows:

(A) Strike the word “22” and inserting the word “42” in its place;

(B) Insert at the end thereof a new sentence to read as follows:

“District tax returns and District tax information relevant to establishing a property’s entitlement to the homestead deduction provided under §§ 47-849 through 47-850.03, the senior and disabled relief provided under § 47-863, and the owner-occupant residential tax credit provided under § 47-864 may be disclosed to the Commission, and shall be treated as tax returns and personal information for purposes of paragraph (6) of this subsection, and such tax returns and personal information provided which is not that of the property owner shall not be disclosed to the property owner.”.

(2) Subsection (f)(2) is amended as follows:

(A) The existing paragraph is renumbered as subparagraph

(A).

(B) A new subparagraph (B) is added to read as follows:

“(B) DCRA may change a real property classification from
vacant

or blight which is the result of a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or preceding 3 tax years.”.

(d) Section 47-831(a) is amended by striking the last sentence thereof and inserting the following sentence in its place:

“An owner aggrieved by a reassessment made under this section may, within 45 days of the date of the notice, petition for an administrative review of the reassessment and may appeal from a final determination thereon, to the same extent as if the appeal were filed under § 47-825.01a(d)(2).”

(e) In Section 47-863(a)(1A)(A)(iii)(I) strike the phrase “, in whole or in part,”

(f) In Section 47-864(e), strike the phrase “section shall” and insert the phrase “section, § 47-850 or § 47-850.01 shall” in its place.

Sec. 70X3. Chapter 9 of Title 47 is amended as follows:

(a) The table of contents is amended by adding a new section § 47-923: “Stamps and other devices as evidence of collection and payment of taxes.”

(b) In section 47-901(3) strike the phrase “(including an estate for life)” and insert the phrase “(excepting an estate for life from the grantor to the grantor)” in its place.

(c) Section 47-914 is amended as follows:

(1) By striking the phrase “under the provisions of § 47-908 may” and inserting the phrase “under the provisions of § 47-4312 or the denial of a claim for refund may, within 6 months from the date of final determination or from the date of the denial of a claim for refund,” in its place;

(2) By inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(d) A new Section § 47-923 is added to read as follows:

“The Chief Financial Officer shall affix or imprint on each instrument accepted for recordation the amount of tax and the amount of fees collected at the time of recordation.”.

Sec. 70X4. Chapter 10 of Title 47 is amended as follows:

(a) The table of contents of chapter 10 of Title 47 is amended by striking the word “assessments” in the section title for § 47-1009 and inserting the phrase “denials of exemption” in its place.

(b) Section 47-1002 is amended as follows:

(1) Subparagraph (20)(A)(ii) is amended by inserting the word “programs” after the phrase “or moderate rehabilitation” in the second place that it appears in such subparagraph;

(2) Subparagraph (20)(A)(vi) is amended by

(A) striking the phrase “March 1st” and inserting the phrase “April 15th” in its place; and

(B) striking the phrase “District of Columbia Department of Finance and Revenue” and inserting the phrase “Chief Financial Officer” in its place.

(3) Subsection (31) is amended as follows:

(A) by striking the phrase “paragraphs (6)” each place it appears and inserting the phrase “paragraphs (5)” in its place; and

(B) by striking the word “providing” in paragraph (31)(C) and inserting the word “leasing” in its place.

(c) In section 47-1005.01, strike the phrase “user. Payments” and insert the phrase “user. Taxes under this section shall be billed semiannually in the same manner as real property taxes. Payments” in its place.

(d) Section 47-1005.03(f)(1) is amended as by striking the phrase “Department of Housing and Community Development and” and inserting the phrase “Department of Housing and Community Development (DHCD), and DHCD shall certify” in its place.

(e) Section 47-1009 is amended as follows:

(1) The section heading is amended by striking the word “assessments” in the section heading for section 47-1009 and inserting the phrase “denials of exemption” in its place.

(2) Paragraph (a)(1) is amended as follows:

(A) by inserting the phrase “or otherwise sends” after the word “mails”;

(B) by inserting the phrase “or revocation” after the phrase “written denial”;

(C) by striking the phrase “assessment, classification, equalization, or valuation” and inserting the phrase “denial or revocation of exemption” in its place; and

(D) by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(3) Paragraph (a)(2) is amended as follows:

(A) by striking the phrase “§ 47-825” and inserting the phrase “chapter 8 of this title” in its place;

(B) by striking the phrase “July 1st” and inserting the phrase “the beginning of the real property tax year” in its place.

Sec. 7005. Chapter 13A of Title 47 is amended as follows:

In section 47-1342(b)(1)(A), strike the phrase “premises address” and insert the phrase “premise address (if assigned by the Mayor)” in its place.

(a) § 47-1342.01 is amended by adding at the end of the existing sentence the following

sentence: “The Chief Financial Officer shall sell the real property at the tax sale if the Chief Financial Officer discovers before the tax sale that the payment was refused by the drawee or the funds were not collected by the District. Any redemption of a sale of a real property shall be rescinded *nunc pro tunc* if payment was refused by the drawee or the funds were not collected by the District, and the purchaser shall continue with enforcement. This section shall apply notwithstanding any other provision under this chapter to the contrary, including any provision providing for notice before the sale or for cancellation of the sale; provided that the notice under § 47-1353.01 that was not given previously shall be mailed within 30 days of discovery of the payment that was refused by the drawee or the funds that were not collected by the District as required.”.

(b) § 47-1346(a)(5) is amended by adding a new subparagraph (F) to read as follows:

“(F)(i) District of Columbia government employees and contractors, or the family

members or business associates of District government employees and contractors, under the following classifications or employed in the following offices or positions, shall not be permitted to register for or bid on properties at any tax sale:

“(I) Executive Service employees as described in § 1.610.51;

“(II) Office of the City Administrator;

“(III) Office of the Deputy Mayor for Planning and Economic Development, and the following subordinate organizations thereunder: Department of Consumer and Regulatory Affairs, Department of Housing and Community Development, and the Office of Planning;

“(IV) Office of the Chief Financial Officer; and

“(V) Mayor, Councilmember, Advisory Neighborhood Commissioner, or a staff member thereof.

“(ii) For purposes of this paragraph, the phrase “family member” means parents, spouses or domestic partners, siblings and children.

“(iii) For purposes of this section, the term “business associate” means:

“(I) An organization in which the employee, elected official, or contractor serves as an officer, director, trustee, or employee; or

“(II) Any person or organization with whom the employee, elected official, or contractor is negotiating employment or has any arrangement concerning prospective employment.”.

(c) In § 47-1361(b-1) strike the phrase “on a real property tax bill or notice that

was mailed to the real property's owner as indicated on the tax roll to the owner's mailing address on the tax roll” and insert the phrase “as a liability in OTR’s online real property tax billing database” in its place.

Sec. 70X5. Chapter 15 of Title 47 is amended as follows:

(a) Section 47-1512(e) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

(b) Section 47-1533 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X6. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1815.01 is amended by adding at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to any appeal filed under this section.”

Sec. 70X7. Chapter 20 of Title 47 is amended as follows:

(a) Section 47-2020(a) is amended by adding at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to any appeal filed under this subsection.”

Sec. 70X8. Chapter 23 of Title 47 is amended as follows:

(a) Section 47-2319 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X9. Chapter 24 of Title 47 is amended as follows:

(a) Section 47-2412 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an application for refund under this section.”; and

(b) Section 47-2413 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70XX. Chapter 25 of Title 47 is amended as follows:

(a) Section 47-2514 is amended by striking the phrase “Chapter 13 of this title” and inserting the phrase “Chapter 13A of this title” in its place.

Sec. 70X0. Chapter 33 of Title 47 is amended as follows:

(a) Section 47-3303 is amended:

(1) by striking the word “mailing” and inserting the phrase “mailing or otherwise sending” in its place;

(2) by adding at the end thereof a new sentence to read as follows:
“Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”

(b) Section 47-3310 is amended as follows:

(1) Subsection (a) is amended:

(A) by striking the phrase “2 years” wherever it appears and inserting the phrase “3 years” in its place;

(B) by striking the phrase “After receiving notice of disallowance,” and inserting the phrase “Within 6 months of the date that the Chief Financial Officer mails written notice of disallowance” in its place.

(C) by striking the phrase “or after the expiration” and inserting the phrase “or within 6 months after the expiration”;

(D) by adding after the phrase “as provided in §§ 47-3303 and 47-3304 of this title” the sentence “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”

Sec. 70X1. Chapter 37 of Title 47 is amended as follows:

(a) Section 47-3717(c) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

Sec. 70X2. Chapter 39 of Title 47 is amended as follows:

(a) Section 47-3908(c) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

Sec. 70XX. Chapter 43 of Title 47 is amended as follows:

(a) Section 47-4312 is amended by adding a new subsection (g) the end thereof to read as follows:

“(g) For purposes of this section, the word “deficiency” means the amount or amounts by which the tax imposed as determined by the Chief Financial Officer exceeds the amount shown as the tax upon the return of the person or persons liable for the payment thereof, or the amount of tax determined by the Chief Financial Officer if no return is filed by the taxpayer.”.

Sec. 70X3. Chapter 44 of Title 47 is amended as follows:

(a) Section 47-4437 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X4. Title III of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1101 *et seq*), is amended as follows:

(a) The table of contents is amended by adding a new section 325 (D.C. Official Code § 42-1125): “Stamps and other devices as evidence of collection and payment of taxes.”

(b) Section 301(3)(A) (D.C. Official Code § 42-1101(3)(A) is amended as follows:

(1) In sub-subparagraph (i) strike the term “Title” and insert the phrase “Title (including an estate for life to a person other than the grantor)” in its place.

(2) In sub-subparagraph (ii) strike the phrase “(including an estate for life)”.

(c) Section 303 (D.C. Official Code § 42-1103) is amended as follows:

(1) In subsection (a-5)(2), strike the phrase “shall be” wherever it appears and insert the phrase “shall also be” in its place.

(2) In subsection (b-1)(2)(B), before the semicolon add the phrase “, if not filed simultaneously”.

(d) Section 314 (D.C. Official Code § 42-1114) is amended as follows:

(1) By striking the phrase “under the provisions of § 42-1108 may” and inserting the phrase “ under the provisions of § 47-4312 or the denial of a claim for refund may, within 6 months from the date of final determination or from the date of the denial of a claim for refund,” in its place;

(2) By inserting at the end thereof the sentence “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(e) A new Section 325 (D.C. Official Code § 42-1125) is added to read as follows:

“The Chief Financial Officer shall affix or imprint on each instrument accepted for recordation the amount of tax and the amount of fees collected at the time of recordation.”.

Sec. 70X5.

In sec. 7024 of the Fiscal Year 2020 Budget Support Act of 2019 (DC Law 23-16, effective September 11, 2019), strike the term “subtitle” and insert the phrase “subtitle, excepting sections 7022(b) and (e) and 7023(c)” in its place.

Sec. 70X6.

In section 555(3) of An Act To establish a code of law for the District of Columbia, approved March 8, 1901 (31 Stat. 1189; D.C. Official Code § 42-407(3)), strike the phrase “§ 47-4221” and insert the phrase “§ 47-4221 or section 1046 of the Fiscal Year 2013 Budget Support Act of 2012 (D.C. Law 19-168, effective September 30, 2012; D.C. Official Code § 1-350.05)” in its place.

8. SUBTITLE X: ELECTRONIC FILING MANDATE FOR TAX PREPARERS ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle creates a requirement that mandates electronic filing of tax return by tax preparers who file more than 25 tax returns in 2021 or more than 10 tax returns in 2022 or later. The subtitle would ensure that tax return preparers who file returns in amounts that exceed the relevant thresholds file returns electronically. Under current law, there is no requirement that tax return preparers file returns electronically. Paper filing of tax returns by return preparers creates operational costs and burdens to the Office of Tax and Revenue. Further, paper filing by tax return preparers creates greater opportunity for fraud or other mistakes.

b. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because by requiring electronic filing of returns by certain tax return preparers, the District will reduce return processing time and expense and have increased ability to audit and monitor tax return preparers to ensure they are correctly and accurately filing tax returns on behalf of District residents. Allowing the OCFO to suspend electronic filing identification numbers of tax preparers who knowingly file tax returns that understate taxable income will aid in reducing fraudulent returns.

d. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code Chapter 18 of Title 47 to ensure that tax return preparers who file returns in amounts that exceed the relevant thresholds file returns electronically.

Sec. XXXX. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the “Electronic Filing Mandate for Tax Preparers Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) A new section 47-1805.06 is added to read as follows:

“§47-1805.06 Electronic Filing Mandate.

(a) “For the purpose of this section, the term:

(1) “Tax return preparer” shall have the same meaning as § 47-4217(a)(1) except that it shall not include a person who only prepares returns or claims for refund for persons served by non-profit organizations that provide free tax preparation to low- to moderate-income individuals, persons with disabilities, the elderly, and limited English speakers.

(2) If a tax return preparer prepares more than 25 returns or claims for refunds in calendar year 2021 for any tax imposed under this chapter for a person required to file a tax return pursuant to § 47-1805.02, all such tax returns prepared by that tax return preparer shall be filed using electronic means in a manner prescribed by the Chief Financial Officer.

(3) If a tax return preparer prepares more than 10 tax returns or claims for refund in calendar year 2022 or any calendar year thereafter for any tax imposed under this chapter for a person required to file a tax return pursuant to § 47-1805.02, all such tax returns prepared by that tax return preparer shall be filed using electronic means in a manner prescribed by the Chief Financial Officer.

(4) Upon request, the Chief Financial Officer may waive the electronic filing requirement imposed by this section upon finding that such requirement would cause an undue hardship. The tax return preparer must request in writing the waiver from the Chief Financial Officer and clearly demonstrate the nature of the undue hardship. Within 45 days after receiving the request for waiver, the Chief Financial Officer shall issue a waiver or denial of the request.”.

Sec. 70X3. Chapter 42 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-4217 is amended to read as follows:

(1) Subsection (e)(1) is amended by striking the phrase “\$1,000,” and inserting the phrase “\$1,000, and suspension of their electronic filing identification number for purposes of District tax returns”.

(2) Subsection (h) is added as follows: “A tax return preparer shall pay a penalty of \$250 for each return or claim for refund prepared by the tax preparer, but not to exceed an aggregate amount of \$2,500, which was required to be filed using electronic means pursuant to § 47-1805.06 and was not filed as such.”.

Sec. 70X4. Applicability date.

This act shall apply as of January 1, 2021.

B. RECOMMENDATIONS ON NEW PROPOSED SUBTITLES

The Committee on Business and Economic Development recommends the following new subtitles to be added to the “Fiscal Year 2020 Budget Support Act of 2019”:

1. Title --. Subtitle --. Adams Morgan Business Improvement District Tax Rate Amendment Act of 2020
2. Title --. Subtitle --. Equity Impact Enterprise Establishment Amendment Act of 2020
3. Title – Subtitle --. Small Business Recovery Task Force Establishment Act of 2020
4. Title – Subtitle --. Racial Equity Achieves Results Amendment Act of 2020
5. Title – Subtitle --. Equitable Impact Assistance for Local Business Act of 2020
6. Title – Subtitle --. Deputy Mayor for Planning and Economic Development Grant Making Authority Amendment Act of 2020

1. SUBTITLE XX. ADAMS MORGAN BUSINESS IMPROVEMENT DISTRICT TAX RATE AMENDMENT ACT OF 2020

a. Purpose, Effect, and Impact on Existing Law

This subtitle allows the Adams Morgan Business Improvement District (BID) to amend its bylaws, plan, and tax rate so that the board has time to vote on the new tax rate and submit it to the Mayor for review before fiscal year 2020 tax bills are issued.

b. Committee Reasoning

This subtitle is necessary in assisting businesses within the Adams Morgan BID.

c. Section-by-Section Analysis

Sec. 2091. States the short title.

Sec. 2092. Amends the BID Act to align the applicability of the tax changes within the Adams Morgan BID.

d. Legislative Recommendations for the Committee of the Whole

Sec. XX1. Short title.

This subtitle may be cited as the “Adams Morgan Business Improvement District Amendment Act of 2020”.

Sec. XX2. Section 206(c) of the Business Improvement District Act of 1996, effective March 8, 2006 (D.C. Law 16-56; D.C. Official Code § 2-1215.56(c)), is amended to read as follows:

“(c) The BID taxes for the taxable properties in the Adams Morgan BID shall not exceed \$.21 for each \$100 in assessed value for all taxable properties and all commercial portions of mixed use properties; provided, that any change in the BID taxes from the current tax year rates shall be made subject to the requirements of section 9.”

2. SUBTITLE XX. EQUITY IMPACT ENTERPRISE ESTABLISHMENT AMENDMENT ACT OF 2020.

a. Purpose, Effect, and Impact on Existing Law

The Equity Impact Enterprise Establishment Act amends DC Official Code 2-218.01 *et seq.*, to create a new CBE designation for an equity impact enterprise; allows them to receive bid and preference points; provides preference under the Small Business Capital Access Fund; unbundles contracts; and establishes a program for equity impact enterprises.

b. Committee Reasoning

The District of Columbia has a compelling governmental interest to ensure small, local minority and women owned- businesses, and disadvantaged businesses in the District do not permanently close as a result of the COVID-19 public health emergency. Due to the

public health emergency, it has been estimated that approximately one in four small businesses will permanently close. As data slowly emerges, it is becoming increasingly evident that minority and women-owned businesses will be disproportionately impacted.¹¹⁵ Recent scholarship such as works from Brookings or the Center for Equitable Growth highlight how investing in minority and women-owned firms is essential to economic recovery. This subtitle then, is not only to assist businesses during recovery of the COVID-19 pandemic but also as the city and its businesses look to recovery and restoring our local economy. As such, the District must take immediate steps to remedy the harm that will befall businesses that fall within these categories as a result of this crisis.

The Committee agrees with the Mayor's ReOpenDC Plan included a recommendation, to "Address the underlying structural disparities that contribute to racial/socioeconomic inequities in DC pre COVID-19, including access to capital and access to markets."¹¹⁶ The recommendations also encouraged policies that would provide all businesses equitable access to DC government resources and to establish key programs that support job creation and business expansion. The Committee has designed the equity impact enterprise program to accomplish these ends.

Unfortunately, to date, both local and Federal programs designed to assist small businesses are either not reaching businesses that qualify as an equity impact enterprise or will not be enough to sustain them throughout the duration of the COVID-19 crisis. At the Federal level, Congress allocated an initial \$350 billion to the Small Business Administration (SBA) to issue loans of up to \$10 million per business and up to \$10,000 in emergency grants to cover operating expenses. Out of the \$2.2 trillion coronavirus relief bill, Congress allocated just \$10 million to the Minority Business Development Agency (MBDA) to support minority-owned firms, not even one percent of relief assistance.

As noted in a March City Lab article, local jurisdictions must consider the multitude of structural issues that often prevent black businesses from receiving equitable relief. These structural issues embedded in the fabric of this country continue to result in disparate outcomes. Outcomes such as Black-owned businesses start with approximately a third less capital than their white counterparts, that leave them with difficulty in raising private investments from mainstream investment systems.¹¹⁷ The report notes, "Black people

¹¹⁵Further, of these businesses in immediate-risk industries, 39% are female-owned, or equally female- and male-owned, compared to 29% of business in industries at near-term risk and 36% at long-term risk. Similarly, 20% of businesses in immediate-risk industries are run by Asian American or Black owners, compared to 7% of businesses in industries at near-term risk and 12% at long-term risk; Sifan Liu and Joseph Parilla, "Businesses owned by women and minorities have grown. Will COVID-19 undo that?" *Brookings*, Tuesday, April 14, 2020.. <https://www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/>

¹¹⁶<https://coronavirus.dc.gov/sites/default/files/u65602/10.%20Retail%20and%20Small%20Business%20Summary.pdf>

¹¹⁷ Andre M. Perry, Jonathan Rothwell, and David Harshbarger, "Five-star reviews, one-star profits: The devaluation of businesses in Black communities," *Brookings*, February 18, 2020. Accessed at <https://www.brookings.edu/research/five-star-reviews-one-star-profits-the-devaluation-of-businesses-in-black-communities/>

represented 12.7% of the U.S. population, but only 4.3% of the nation’s 22.2 million business owners in 2012.”¹¹⁸

Other recent scholarship from Brookings Institute Fellow Andre Perry underscores how historic discrimination distorts how Black businesses as well as their assets in Black communities are undervalued. Yet another report found that highly rated businesses in Black-majority neighborhoods experience annual losses in business revenue as high as \$3.9 billion. Perry concluded that if we are to “achieve racial equity in the US.. we must find ways to restore the value of Black neighborhoods, which have been reduced by racism. The economy, and its people, stand to gain from anti-discrimination, anti-racist policies that increases capital flow to businesses in Black neighborhoods.”

JP Morgan Chase recently reported that racial gaps persist in liquid assets and put minorities at increased risk in facing economic volatility and income fluctuations, such as the ones being caused by the public health emergency.¹¹⁹ They found that racial gaps in liquid assets (the sum of balances in one’s checking, prepaid debit cards, savings, money market, and certificates of deposit accounts) are twice as large as gaps in take-home income.

According to the SBA, four in five businesses are non-employers. Compared to employer owners, non-employer businesses are much more racially diverse. About one third of non-employer businesses are owned by minorities and four in ten are owned by women.¹²⁰ Further, 9.9 million firms in the United States are owned by women, with 89.5 percent of those being non-employer firms. Approximately 79 percent of all white-owned businesses and 96 percent of Black-owned businesses are non-employer.

According to the Sanford Institute for Economic Policy Research, only one percent of Black business owners obtained loans in their founding year, compared to seven percent of white business owners.

On average, minority and women-owned businesses have thirty percent fewer employees compared to male-or white-owned businesses. Research also shows that women-owned businesses, or businesses equally owned by a man and woman, face the highest degree of immediate and long-term risk amid the COVID-19 crisis. This was evident based on data from the Great recession of 2008. MWBEs suffered major losses during the economic recession of 2008. Joseph Prilla and Sifan Liu note that sixty percent

¹¹⁸ Natalie Hopkinson and Andre Perry, “Black Businesses Left Behind in Covid-19 Relief,” City Lab, Accessed March 30, 2020, <https://www.citylab.com/perspective/2020/03/coronavirus-relief-racial-equity-black-business-covid-19/609055/>; according to analysis derived from the latest Census Survey of Business Owners. Asian Americans accounted for 6.9% of business owners and 4.8% of the population, while Latino or Hispanic Americans accounted for 12% of business owners and 16.4% of the population.

¹¹⁹ Farrell, Diana, Fiona Greig, Chris Wheat, Max Liebeskind, Peter Ganong, Damon Jones, and Pascal Noel. 2020. “Racial Gaps in Financial Outcomes: Big Data Evidence.” JPMorgan Chase Institute. <https://institute.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-race-report-executive-summary.pdf>

¹²⁰ <https://www.sba.gov/sites/default/files/advocacy/Nonemployer-Fact-Sheet.pdf>

of white-owned businesses that existed in 2002 were still around in 2011, compared to just forty-nine percent of Black-owned firms.¹²¹

Other economist such as UC Irvine’s Baradaran speak to how historic patterns of discrimination subject smaller and often firms owned by minorities to greater uncertainty during economic crisis noting that MWBEs are “undercapitalized and highly vulnerable to any dip or sway in the economy.”¹²² Further, a 2017 study from the Federal Reserve Banks of Atlanta and Cleveland found that Black business owners apply for funds at a ten percent higher rate than white-owned firms, but their approval rates are nearly twenty percent lower. The report also noted that when black entrepreneurs do get approved for financing, only forty percent receive the full amount they requested, compared to seventy percent of white business owners. Anecdotally, the study highlighted that forty percent of Black business owners surveyed are so pessimistic about their chances of being approved for bank loans that they do not even apply.¹²³

For these reasons, the Committee recommends this subtitle.

c. Section-by-Section Analysis

- Sec. XX1. States the short title.
- Sec. XX2. Amends the CBE Act to create a new program for equity impact enterprises. Amends the unbundling and rulemaking requirement; and requires the Mayor to establish a pilot program for equity impact enterprises, allowing them to receive preference under the Small Business Capital Access Fund, and creates the CBE designation for an equity impact enterprise.
- Sec. XX3. Amends Section 2 of the Minority and Women-Owned Business Assessment Act of 2008, to ensure all agencies with procurement authority collect and accurately track and report spend data and requires the Mayor to undertake a true disparity study.

d. Legislative Recommendations for the Committee of the Whole

Sec. XXX1. Short title.

¹²¹ Liu and Parilla, Brookings. <https://www.brookings.edu/blog/the-avenue/2020/03/25/what-the-great-recession-can-tell-us-about-the-covid-19-small-business-crisis/>

¹²² Kara Voght, “You’re Just Screwed”: Why Black-Owned Businesses Are Struggling to Get Coronavirus Relief Loans,” Mother Jones, April 24, 2020, Accessed at <https://www.motherjones.com/politics/2020/04/youre-just-screwed-why-black-owned-businesses-are-struggling-to-get-coronavirus-relief-loans/>

¹²³ <https://www.clevelandfed.org/en/newsroom-and-events/press-releases/2017/pr-20171108-atlanta-and-cleveland-feds.aspx>

This subtitle may be cited as the “Equity Impact Enterprise Establishment Amendment Act of 2020”.

Sec. XXX2. The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding a new part D-i to read as follows:

“ Part D-i. Programs for equity impact enterprises.”.

(b) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding a new paragraph (8A) to read as follows:

“(8A) “Equity impact enterprise” means a business enterprise that is a resident-owned business or a small business enterprise that can demonstrate that the enterprise is:

“(i) At least 51% owned by an individual who is, or a majority number of individuals who are, Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx;

“(ii) At least 51% owned by a woman or a majority of women; or

“(iii) Is a disadvantaged business enterprise.”.

(c) Section 2343(a) (D.C. Official Code § 2-218.43(a)) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Subparagraph (G) is amended by striking the word “and”.

(B) Subparagraph (H) is amended by striking the period and inserting a semicolon in its place.

(C) A new subparagraph (I) is added to read as follows:

“(I) Five points for an equity impact enterprise.”.

(2) Paragraph (2) is amended as follows:

(A) Subparagraph (G) is amended by striking the word “and”.

(B) Subparagraph (H) is amended by striking the period and inserting a semicolon in its place.

(C) A new subparagraph (I) is added to read as follows:

“(I) Ten percent for an equity impact enterprise.”.

(d) Section 2347 (D.C. Official Code § 2-218.47) is amended to read as follows:

“Sec. 2347. Unbundling requirement; rulemaking requirement.

“(a)(1) No later than January 1, 2021, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules on unbundling that include procedures to ensure that solicitations are subdivided and unbundled and that smaller contracts are created to the extent feasible and fiscally prudent.

“(2) The proposed rules required by paragraph (1) of this subsection shall be submitted to the Council for a 30-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within the 30-day review period, the proposed rules shall be deemed approved.

“(b) Beginning on January 1, 2021 and quarterly thereafter, the Department shall publicly make available on its website solicitations that have been subdivided and unbundled.

“(c) Five years from the effective date of the Equity Impact Enterprise Establishment Amendment Act of 2020, as introduced on May 18, 2020 (Bill 23-760), the

Mayor shall evaluate the effectiveness of the equity impact enterprise program and whether or not it has resulted in creating more contracting opportunities for equity impact enterprises, and submit the evaluation to the Council.

“(d) The Department shall provide targeted technical assistance, networking opportunities, and vendor workshops to prepare equity impact enterprises to compete for contracting and procurement opportunities.”.

(e) Section 2349(b) (D.C. Official Code § 2-218.49 (b)) is amended to read as follows:

“(b) No later than October 1, 2020, the Mayor shall implement a pilot program for equity impact enterprises.”.

(f) Section 2375(d)(1) (D.C. Official Code § 2-218.75(d)(1)) is amended by striking the phrase “or a resident-owned business enterprises pursuant to section 2235” and inserting the phrase “a resident-owned business enterprise pursuant to section 2235, or an equity impact enterprise as defined in section 2302(8A)” in its place.

(g)(1) A new Part D-i is added to read as follows:

“Part D-i. Programs for Equity impact enterprises.

“Sec. 2377. Equity impact enterprise.

“An equity impact enterprise, as defined in section 2302(8A), shall be eligible for certification as an impact enterprise.”.

Section xxx3. Section 2 of the Minority and Women-Owned Business Assessment Act of 2008, effective March 26, 2008 (D.C. Law 17-136; D.C. Official Code § 2-214.01), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Paragraph (2) is amended by striking the word “and” at the end.

(2) Paragraph (3) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (4) is added to read as follows:

“(4) Ensure all agencies with procurement authority are trained to evaluate, collect, and accurately track spend data for equity impact enterprises, minority-owned prime contractors and subcontractors, and women-owned prime contractors and subcontractors.”.

(b) Subsection (b-1) is amended as follows:

(1) The lead in text of paragraph (1) is amended to read as follows:

“In Fiscal Year 2020, The Mayor shall award a grant, on a competitive basis, in an amount not to exceed \$ 1 million to a person or entity to conduct a District-based study (“disparity study”) to.”.

(2) A new paragraph (1A) is added to read as follows:

“(1A) All agencies with procurement authority shall coordinate with the Executive Office of the Mayor to provide timely and accurate information to assist with the completion of the disparity study.”.

(3) Paragraph (2) is amended by striking the phrase “270 days after October 30, 2018” and inserting the phrase “360 days after October 30, 2020 in its place.

3. SUBTITLE XX. BUSINESS RECOVERY TASK FORCE ESTABLISHMENT ACT OF 2020.

a. Purpose, Effect, and Impact on Existing Law

The purpose of this subtitle is to establish the Business Recovery Task Force (Task Force) to provide recommendations to the Mayor and Council regarding the recovery of the District’s businesses following the end of the COVID-19 emergency.

b. Committee Reasoning

With one of every four businesses facing permanent closure, the District should utilize all resources across the city, both public and private to facilitate in an equitable recovery.

c. Section-by-Section Analysis

Sec. xxx1. States the short title.

Sec. xxx2. Contains membership, appointment, staff, and meetings.

Sec. xxx3. Contains a reporting requirement

Sec. xxx4. Contains definitions

Sec. xxx5. Includes a sunset provision.

d. Legislative Recommendations for the Committee of the Whole

Sec. 2xx1. Business Recovery Task Force establishment.

There is established the Business Recovery Task Force (“Task Force”) to provide recommendations to the Mayor and Council regarding the recovery of the District’s small businesses following the end of the COVID-19 emergency.

Sec. 2xx2. Membership; appointment; staff; meetings.

(a) The Task Force shall be composed of:

(1) The following government members, or their designees:

(A) The Deputy Mayor for Planning and Economic Development;

(B) The Director of the Department of Small and Local Business Development; and

(C) The Chairperson of the Council's Committee on Business and Economic Development; and

(2) Eight representatives of small business enterprises, one from each Ward, all of whom shall be District residents, who collectively represent industries and geographical areas hardest hit by the COVID-19 emergency, with at least one representative being an owner of a equity impact enterprise as defined by section 2302(8A) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)) ("CBE Act").

(b) The small business representatives shall be appointed by the Chairman of the Council from recommendations made by the Chairperson of the Council Committee on Business and Economic Development, and shall serve without compensation.

(c) The Chairperson of the Task Force shall be designated by the Chairperson of the Council's Committee on Business and Economic Development.

(d) The Department of Small and Local Business Development ("Department") shall provide administrative support for the Task Force.

(e) If when all the members have been appointed and the Task Force is functioning, the COVID-19 emergency is still in effect, the Task Force shall convene monthly. After the COVID-19 emergency has been lifted, the Task Force shall meet not less frequently than quarterly until dissolution and provide the Department with recommendations to support small business enterprises.

Sec. xxx3. Reporting requirement.

Within xxx days after the appointment of the appointed members, the Task Force shall submit a report to the Mayor and the Council that addresses the following:

(1) Recommendations to identify and access available technical and financial assistance opportunities, including the Small Business Administration Disaster Relief funds and other federal funds as they become available;

(2) Support for outreach and educational efforts to small businesses; and

(3) Long-term policy recommendations for economic recovery of small businesses following the COVID-19 emergency.

Sec. xxx4. Definitions.

For the purposes of this subtitle, term:

(1) “COVID-19 emergency” means the public health emergencies declared in the Declaration of Public Emergency (Mayor’s Order 2020-045) together with the Declaration of Public Health Emergency (Mayor’s Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

(2) “Small business enterprise” shall have the same meaning as provided in 2302(16) of the CBE Act.

Sec. 2xx5. Sunset.

The Task Force shall dissolve and this subtitle shall expire as of the date the Task Force submits the report required by section xxx3.

4. SUBTITLE XX. RACIAL EQUITY ACHIEVES RESULTS AMENDMENT ACT OF 2020.

a. Purpose, Effect, and Impact on Existing Law

Decades of structural and institutional racism against black people in the District and across this country has created widespread racial inequities. These inequities are pervasive and have gone unchecked for far too long. As a result, disparate outcomes persist across nearly every indicator of success including in education, criminal justice, employment, housing, environmental justice, health, and business.

With the onset of COVID-19, it has become evident that for many black residents across the District, there exists two pandemics, one being COVID-19, the other, racism. These issues, unfortunately, are not new. In fact, one could argue, as Ibram X Kendi does, that racism has its roots in the foundation of this country. He would not be alone in that argument, and in fact joins a long list of historians and scholars from W.E.B. Du Bois, to Robin D.G. Kelly, David Blight, and Michelle Alexander.

Now is the time that local governments can and should take bold steps and remedies to correct the wrongs created by centuries of racist policies that have negatively affected black residents. Policies such as segregation, redlining, and predatory lending practices and their devastating impact on black communities certainly merit conversations of economic redress, but at the very least underscore the importance of righting the wrongs of the ever-present manifestations of centuries of systemic and institutionalized racism.

b. Committee Reasoning

This legislation moves the work of the District on racial equity forward in bold and meaningful steps. The DC Council is determined to form a government that is intentional in attacking the racial inequities that have plagued the city since its inception. Through structure, policy, and program changes, disparities will decrease and diversity and inclusion will become the standard.

It is evident that the neglect of specific action to oppose racial inequity has failed people of color in all segments of the community. As the Nation's Capital, we are well positioned to be a model city that eliminates racial disparities and confronts racial injustice. DC government has fallen short in being a community for all races, and the impact has been devastating. The only route for healing is a concerted effort to reverse the overlooked impact.

c. Section-by-Section Analysis

- Sec. xxx1. States the short title.
- Sec. xxx2. Establishes the Office of Racial Equity.
- Sec. xxx3. Establishes the Council Equity Assessment Program.

- Sec. xxx4. Establishes the Commission on Racial Equity, Social Justice and Economic Inclusion.
- Sec. xxx5. Contains definitions.
- Sec. xxx6. Amends the Office of Human Rights Establishment Act of 1999 to require the Office of Racial Equity, in coordination with the Office on Human Rights to conduct racial equity trainings.
- Sec. xxx7. Amends Chapter 3 of Title 47 of the District of Columbia Official Code to require the Office of Racial Equity, in coordination with the Executive to design and implement a racial equity tool.

d. Legislative Recommendations for the Committee of the Whole

Sec. xxx1. Short title.

This subtitle may be cited as the “Racial Equity Achieves Results Amendment Act of 2020”.

Sec. xxx2. Establishment of the Office of Racial Equity.

(a) There is established an Office of Racial Equity within the executive branch of the District government within the Office of the City Administrator. The purpose of the Office shall be to coordinate the District’s efforts towards achieving racial equity.

(b)(1) The Office shall be headed by a Chief Equity Officer (“CEO”), who shall be appointed by the Mayor with the advice and consent of the Council pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3,1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(2) The CEO shall be a fulltime position, for which annual compensation shall be fixed in accordance with Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § 1-610.51 *et seq.*).

(3) The CEO shall have such staff as is appropriated in an approved budget and financial plan.

(c) The Office shall be responsible for:

(1) Establishing a structure to develop, provide oversight of, and advance the District's goals towards achieving racial equity;

(2) Coordinating with the Office of Human Rights to produce racial equity training materials to be distributed to the District government;

(3) Coordinating with Executive agencies in development of annual metrics and the development of a Racial Equity Action Plan;

(4) Collaborating with the Commission; and

(5) Analyzing the feasibility of expanding the Racial Equity Action Plan to include:

(A) The District's contracting and procurement process;

(B) The District's hiring and promotion process; and

(C) The development of effective systems to capture, coordinate, and share racial equity data across agencies.

(d) Reporting requirements.

By October 1, 2022, in collaboration with the Commission, the CEO shall submit the Racial Equity Action Plan to the Mayor and the Council, and by October 1 annually thereafter, the Office shall report to the Mayor and Council on the Office's efforts to coordinate actions, goals, and District-wide investments within the executive branch to further racial equity and provide a summary of the programs and activities of the Office and an independent evaluation of the District's efforts to achieve racial equity.

Sec. xxx3. Council Equity Assessment Program.

(a) There is established within the Council of the District of Columbia a Council Equity Assessment Program (Equity Assessment Program).

(b) The Equity Assessment Program shall be managed by a Council Equity Coordinator. The Council shall, by resolution, appoint the Coordinator, who shall serve at the pleasure of the Council.

(c) In addition to duties and guidelines developed by the Council, the Coordinator shall be responsible for:

(1) Producing racial equity training materials and providing ongoing racial equity training for Council staff;

(2) Developing a plan and protocol for conducting Racial Equity Impact Assessments for legislation before the Council, including the:

(A) Type of legislation for which REIAs will be conducted, including prioritization or tiered approach, if necessary; and

(B) Timeline and process for developing a REIA;

(3) Collaborating with the Commission;

(4) Preparing REIAs that shall, at a minimum, include:

(A) The potential racial equity impact of enacting the measure; and

(B) A statement of the basis for the estimated impact and the sources of information, assumptions, and methodologies used; and

(5) By October 1, 2022, and every 3 years thereafter, publishing a summary of the Program's activities and an analysis of the REIAs issued during the time covered by the report.

(d) The findings of a REIA shall be non-binding but provide members with a comprehensive picture of the racial equity impact of a proposed measure.

Sec. xxx4. Commission on Racial Equity, Social Justice and Economic Inclusion.

(a) The Commission on Racial Equity, Social Justice, and Economic Inclusion is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

(b) The Commission shall:

(1) Work with, and seek regular input and advice from, the CEO and the Coordinator;

(2) Work with District government agencies to promote inter-agency collaboration, problem-solving, and cooperation relating to racial equity, social justice, and economic inclusion for all District residents; and

(3) Collaborate and serve as a resource to the Coordinator in developing guidelines and processes for implementing Racial Equity Impact Assessments.

(4) Establish a process to develop and distribute information about racial equity, social justice, and economic inclusion;

(5) Advise the Council, the Executive, and Executive agencies about racial equity, social justice, and economic inclusion in the District, and recommend policies, programs, or regulations necessary to reduce racial, social, and economic inequity;

(6) Keep a record of its activities and minutes of all meetings, which shall be kept on file and open to the public upon request;

(7) Develop and distribute information about racial equity, social justice, and economic inclusion;

(8) Meet periodically with the CEO and Executive agencies;

(9) Promote educational activities that increase the understanding of racial equity, social justice, and economic inclusion;

(10) Recommend coordinated strategies for reducing racial, social, and economic inequities; and

(11) Submit an annual report by March 1 of each year to the Executive and Council on the activities of the Commission.

(c)(1) The Commission shall consist of 9 members appointed by the Mayor with the advice and consent of the Council pursuant to section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)).

(2) Members shall be District residents and appointed with due consideration from established public, nonprofit, and volunteer community organizations, community leaders, academic institutions, and other individuals who have shown dedication and knowledge of advancing racial equity or social justice.

(d)(1) A member appointed pursuant to subsection (c) of this section shall serve a term of 3 years; except, that of the initial members, 5 shall be appointed for a term of 3 years and 4 shall be appointed for a term of 2 years. A member may be reappointed but shall not serve more than 3 consecutive terms.

(2) If a member appointed pursuant to subsection (c) of this section leaves the Commission prior to the expiration of the term, the Mayor shall appoint, with the advice and consent of the Council, a successor to fill the unexpired portion of the term in

accordance with section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)).

(e) The appointed members shall bi-annually designate from among them, a Chairman, who shall serve in that capacity and shall be, or shall become within 180 days of hire, a resident of the District of Columbia.

(f)(1) All members shall serve without compensation; except, that expenses incurred by the Commission as a whole, or by a group of its members, may be compensated.

(2) Individual members may be compensated for reasonable expenses incurred in the performance of their official duties, as approved by the Executive Director.

(3) Compensation provided pursuant to this subsection shall become an obligation against appropriated District funds designated for that purpose.

(g)(1)(A) The Commission shall appoint an Executive Director who shall be the chief administrative officer of the Commission. The Executive Director shall not be a member of the Commission.

(B) The Executive Director shall be:

(i) Appointed for a renewable 4-year term;

(ii) A District resident throughout his or her term, provided, that the appointee shall have 180 days in which to become a resident; provided further, that the failure to maintain District residency shall be cause for removal; and

(iii) Removed only for cause.

(2) The Executive Director shall:

(A) Manage the business affairs of the Commission;

(B) Hire and supervise staff, if any, hired to assist the Commission and the Executive Director;

(C) Perform, or supervise staff in the performance of, administrative duties as may be required by the Commission; and

(D) Perform all other duties as the Commission may require to carry out the provisions of this act.

(3) The Executive Director shall receive an annual salary equivalent to that of an executive director of an independent commission on an ED (ES9) pay schedule.

(h)(1) The Executive Director shall serve as the personnel authority for all employees of the Commission; except, that the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code 1-601.01 *et. seq.*) shall apply.

(2) In addition to the authority to hire staff, the Executive Director shall have the authority to obtain appropriate office space, equipment, materials, and services necessary to carry out the responsibilities of the Commission.

(i) The Mayor may remove, after notice and hearing, any member of the Commission, including the Chairman, for neglect of duty, incompetence, misconduct, or malfeasance in office, with consent of the Council.

(j) The Commission shall be responsible for working with District government agencies, including the Office and Coordinator to promote inter-agency collaboration, problem-solving, and cooperation.

(k) The Commission shall meet as necessary to conduct its official business but shall meet at least once per quarter and may use space and supplies owned or rented by the District government for purposes consistent with this act.

(l) The Commission may conduct public hearings, receive testimony, and call witnesses to assist the Commission in the exercise of its powers.

(m) Agencies of the District of Columbia government shall cooperate in providing such information to the Commission as may be necessary to fulfill its statutory responsibilities

(n) The Commission shall develop its rules and procedures.

Sec. xxx5. For the purposes of sections 2 through 4, the term:

(1) “Commission” means the Commission on Racial Equity, Social Justice and Economic Inclusion.

(2) “Coordinator” means the Council Equity Coordinator, as established by section 3.

(3) “Office” means the Office of Racial Equity established by section 2.

(4) “Racial Equity” means the moment when race can no longer be used to predict life outcomes and outcomes for all groups are improved, in particular for persons of color.

(5) “Racial Equity Action Plan” means a formalized accountability plan, including specific timelines, used by an agency to advance racial equity in the performance of its duties.

(6) “Racial Equity Impact Assessments” or “REIA” means an estimate of the change in racial equity in the District attributable to a proposed change in the law.

Sec. xxx6. The Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*), is amended as follows:

(a) A new section 206b is added to read as follows:

“Sec. 206b. Racial equity training.

“(a) “The Office, in coordination and consultation with the Department of Human Resources (“DCHR”) and the Office of Racial Equity, shall provide, on an on-going basis, racial equity training for all District government employees and members of the District’s boards and commissions.

“(b) The Office and DCHR shall conduct racial equity workshops for District employees at the management level.

“(c) The Office shall coordinate with DCHR to develop, pilot, and implement a training series for District employees that equips personnel with better identifying and addressing issues of racial equity.

“(d) The Office and DCHR shall coordinate to develop online and in-person racial equity and inclusion courses that focus on the meaning of diversity, the benefits of a diverse workforce, and barriers that prevent a racially inclusive workforce environment.

“(e) For the purposes of this section, the term “racial equity” means policies and resources to ensure that race is no longer a determining factor in employment and to reduce structural racism.”.

Sec. xxx7. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-308.01 is amended by adding a new subsection (h) to read as follows:

“(h)(1) By March 1, 2021, in coordination with the Office of the City Administrator, the Office of Racial Equity, established by section 2 of Racial Equity Achieves Results Amendment Act of 2020, as introduced on May 18, 2020 (Bill 23-760) (Racial Equity Act”), shall design and implement a racial equity tool to help District agencies incorporate racial equity into their operations, performance-based budgets, programs, policies, rules, and regulations, and to ensure alignment between departmental and District-wide programs and initiatives.

“(2) The Office of Racial Equity shall coordinate with relevant executive agencies and the Commission, pursuant to the Racial Equity Act to identify and address equity issues, establish priorities, establish baseline data, and implement strategies across the District.

“(3) At a minimum, the Mayor shall use the racial equity tools developed under the Racial Equity Act and by the Commission to:

“(A) Identify clear strategic initiatives, objectives, and measurable outcomes;

“(B) Develop metrics to measure progress in redressing disparate social and economic outcomes in the District based on race, sex, and ethnicity;

“(C) Track and measure how programmatic and policy decisions benefit or burden individuals based on race, sex, or ethnicity;

“(D) Examine potential unintended consequences of a policy or programmatic decision and develop a strategy to advance racial equity and mitigate unintended negative consequences; and

“(E) Evaluate the efficacy of District agencies strategic initiatives and programs aimed at reducing disparate outcomes.

“(4) Beginning in Fiscal Year 2022, and every year thereafter, the Mayor’s budget submission package to Council shall include a summary of how the proposed budget advances racial equity in the District, reduces disparate outcomes, and allocates resources to support equitable outcomes.”.

(b) Section 47-308.02 is amended by adding a new subsection (g) to read as follows:

“(g) Beginning no later than Fiscal Year 2022, and for each subsequent fiscal year, the Mayor shall establish at least one performance measure related to an agency’s progress toward achieving racial equity.”.

(c) Section 47-308.03(c)(1) is amended by striking the phrase “agency’s performance on its activities for” and inserting the phrase “agency’s performance on its activities, including those relating to achieving racial equity, for” in its place.

5. SUBTITLE XX. EQUITABLE IMPACT ASSISTANCE FOR LOCAL BUSINESS

a. Purpose, Effect, and Impact on Existing Law

This subtitle establishes the Equity Impact Fund to provide investments in eligible businesses that experience barriers to accessing capital from tradition sources.

b. Committee Reasoning

Minority and women owned businesses often lack access to conventional financing options.¹²⁴ This subtitle will address this gap in access by establishing the Equity Impact Fund. This will be as a fund outside the General Fund of the District of Columbia that is managed by a third-party Fund Manager. The Fund Manager will be selected by the Mayor

¹²⁴ See generally, Ellen Sheng, *This Underfunded Female Demographic is Launching the Most Start-ups in America, Far from Silicon Valley*, CNBC (Feb. 25, 2020), <https://www.cnbc.com/2020/02/25/underfunded-female-demographic-is-launching-the-most-start-ups-in-us.html>; Kimber Lanning, *Lack of Access to Capital is Crippling the US Small Business Sector in Communities of Color*, INTERISE (July 11, 2019) <https://interise.org/lack-of-access-to-capital-is-crippling-the-us-small-business-sector-in-communities-of-color/>.

based on criteria set forth in the subtitle, and preference will be given for Fund Managers who are themselves minority or women owned entities. The Fund Managers will use the Fund to make investments in Equity impact enterprises, which are defined in the subtitle as resident owned or small business that are majority owned by minorities or women, or that are disadvantaged enterprises. The subtitle would also authorize the District to provide an initial investment of \$1.5 million dollars for the Fund once a Fund Manager is selected.

c. Section-by-Section Analysis

- Sec. XXXX. States the short title.
- Sec. XXXX. Provides definitions.
- Sec. XXXX. Establishes the Equity Impact Fund.
- Sec. XXXX. Provides criteria for the Fund Manager and establishes requirements for the selection of a Fund Manager.
- Sec. XXXX. Provides minimum requirements for investments made from the Fund.
- Sec. XXXX. Establishes reporting requirements for the Fund Manager.
- Sec. XXXX. States that the Mayor will reserve the right to recover the amount of the District’s initial investment into the Fund if investments are not made in eligible businesses in a reasonable period of time.

d. Legislative Recommendations for the Committee of the Whole

Sec. xxx1. Short title.

This subtitle may be cited as the “Equitable Impact Assistance for Local Businesses Act of 2020”.

Sec. xxx2. Definitions.

For the purposes of this subtitle, the term:

(1)(A) “Eligible business” means an equity impact enterprise that has \$2 million or less in annual revenue and certifies in writing that the business is unable to obtain

conventional financing or is a business enterprise that cannot reasonably be expected to qualify for financing under the standards of commercial lending.

(B) For the purposes of this paragraph, the phrase “unable to obtain conventional financing” means that the business has attempted but failed in the attempt to obtain financing from conventional sources.

(2) “Equity impact enterprise” means a business that is a resident-owned business or a small business enterprise, as those terms are defined, respectively, in section 2302(15) and (16) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(15) and (16)), that can demonstrate that the enterprise is:

(A) At least 51% owned by an individual who is, or a majority number of individuals who are, Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx;

(B) At least 51% owned by a woman or a majority of women; or

(C) Is a disadvantaged business enterprise.

(3) “Fund” means the Equity Impact Fund established in section xxx3.

(4) “Fund Manager” means a private financial organization selected by the Mayor pursuant to section xxx4.

(5) “Minority” includes individuals who are Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx.

(6) “Private financial organization” means a partnership, corporation, trust, limited liability company, Community Development Financial Institution, or a consortium

of partnerships, corporations, trusts, limited liability companies, or Community Development Financial Institutions, whether organized on a profit or not-for-profit basis, that has as its primary activity the investment of capital into businesses.

Sec. xxx3. Establishment of the Equity Impact Fund.

(a) There is established a fund outside the General Fund of the District of Columbia, designated as the Equity Impact Fund (“Fund”), which shall be managed by a Fund Manager selected by the Mayor. The Deputy Mayor for Planning and Economic Development shall provide, upon selection of the Fund Manager, \$1.25 million in the aggregate in Fiscal Year 2021 for deposit into the Fund (“District’s initial investment”).

(b) The Fund shall be funded by money appropriated for the purposes of the Fund, other amounts, if any, received by the District or Fund Manager for deposit into the Fund, and any monies received as gifts, grants, donations, and awards.

(c) The funds in the Fund shall be used solely to:

(1) Facilitate investment in businesses that lack access to capital;

(2) Make investments into eligible businesses based on an investment strategy determined by the Fund Manager; and

(3) Administer the fund, including the provision of technical assistance to eligible businesses; provided that no more than 15% of the District’s initial investment may be used annually for this purpose.

Sec. xxx4. Fund Manager selection.

(a) The Mayor shall solicit applications, in a form determined by the Mayor, for the position of Fund Manager from private financial organizations. The application shall contain description of:

(1) The qualifications of the applicant, including demonstratable experience in investing in small business, businesses owned by women or minorities, or in businesses that otherwise meet the definition of, or are similar to, an equity impact enterprise;

(2) How the applicant will structure the Fund and investment criteria to achieve the goals and objectives of the Fund;

(3) The ability and plans of the applicant to provide or raise sufficient funds to provide matching contributions for the Fund;

(4) The ability of the applicant to maintain a sufficient fund balance to administer the Fund;

(5) The type of businesses to be targeted for priority investment from the Fund;

(6) A demonstrable ability to offer a variety of financing vehicles, including equity financing, revenue-based financing, royalty financing, and debt financing;

(7) The investment strategies the applicant will employ to achieve the goals and objectives of the Fund; and

(8) Other criteria that the Mayor considers necessary or appropriate.

(b) An applicant for Fund Manager shall be selected based on a scoring rubric established by the Mayor; provided, that:

(1) A preference be given to applicants that are at least 51% owned, operated, or controlled by women or minorities; and

(2) If the applicant manages an existing investment fund, the existing fund not exceed \$100,000,000.

Sec. xxx5. Minimum requirements for investment.

(a) The Fund Manager shall source, underwrite, and monitor all investments placed pursuant to this act. Except as otherwise provided by this act, the Mayor shall not determine the recipient, amount, interest rate, or any other requirement related to an investment made pursuant to this act.

(b) The following requirements shall apply to any investment in an eligible basis made from the Fund using the District's initial investment or proceeds thereof:

(1) The Fund Manager shall begin accepting applications from eligible businesses seeking investment, on a rolling basis, within 30 days of being selected for the position by the Mayor.

(2) For the Fund Manager to provide an investment from the Fund, the eligible business must agree, in writing, to participate in technical assistance training.

(3) The Fund Manager shall establish, for each selected eligible business, a 12-month individualized business plan. Investments shall be distributed to the eligible business in installments based upon completion of specific milestones clearly described in the business's individualized business plan. The individualized business plan shall include technical assistance, provided at no cost to the business, which shall include education on the management and scale of a business through live training or guided recorded sessions. All eligible businesses that receive an investment from the Fund shall be required to participate in at least 3 months of technical assistance training.

Sec. xxx6. Reporting requirements.

(a) The Fund Manager shall submit to the Mayor, on a quarterly basis, a report on the activities of the Fund. The report shall include, at a minimum:

(1) The aggregate amount of dollars invested in eligible businesses during the reporting period;

(2) The number of eligible businesses receiving an investment, including the name and business address for each;

(3) A copy of the individualized business plan for each eligible business, including a description of the technical assistance training provided; and

(4) The aggregate amount of funds in the Fund and a breakdown of the amount of the funds in the Fund used for each of the following, with each amount reported as a percentage of the aggregate amount of the Fund:

(A) The percentage used for technical training assistance;

(B) The percentage used for administration costs; and

(C) The percentage used to compensate the Fund Manager.

Sec. xxx7. Recovery of District investment.

The Mayor shall reserve the right to recover the amount of its initial investment into the Fund and may exercise this right if the Fund Manager does not, within a reasonable period of time, as determined by the Mayor, place investments into eligible businesses in an amount equal to the amount of the District's initial investment into the Fund.

6. SUBTITLE XX. DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT GRANT-MAKING AUTHORITY AMENDMENT ACT OF 2020

e. Purpose, Effect, and Impact on Existing Law

This subtitle amends DC Official Code § 1-328.04(d), to provide the Deputy Mayor for Planning and Economic Development (“DMPED”) grant-making authority to issue funds to certain District chartered banks.

Systemic racism pervades every institution and aspect of society in the District of Columbia. In few areas is this more apparent than in the banking industry. History is replete

with examples of how Black people faced discrimination in banking and were effectively precluded from traditional avenues—access to capital, low-interest loans, mortgage lending, etc.—that led to wealth creation for white people.

Black banks have historically served as a source of credit and capital for black people and Black businesses. Even in distressed communities, Black banks served as engines for economic renewal for Black people. During economic slowdowns, however, Black banks generally struggle financially more than other banks because the communities they serve typically suffer higher rates of unemployment and business closure.¹²⁵

“At best, banks that serve Black communities have been left to fend for themselves, while public policies provided an extra boost to banks serving exclusively white communities. At worst, policymakers from both parties have held up historically Black banks as a way of distracting from structural changes necessary to address the racial wealth gap in the United States.”¹²⁶

As noted in a recent Forbes article, Robert Smith, the private equity billionaire and America’s richest Black person, “discovered the structural racism in banking firsthand as he tried to help Black businesses and banks that serve Black communities obtain Paycheck Protection Program loans. Smith found that Black-owned businesses faced numerous structural obstacles and as a result had trouble accessing the emergency financing being provided by the federal government through the banking sector.”¹²⁷

a. Committee Reasoning

During the 2016 Congressional Black Caucus Conference, Congressman Bobby Rush noted that he expected there to be no remaining Black-owned banks by 2025. As such, immediate actions must be taken by the government to ensure a robust Loan loss reserve program is in place to ensure the survival of the District’s only DC Chartered Bank. This subtitle would allow the bank to disburse funds to loan under special program(s) to Business customers to supplement the deferrals and/or PPP loans that Industrial has underwritten. Funding for Industrial’s Banks have been significantly impacted by looting. Without immediate steps from the Government, customers will continue to face concerns of unfavorable/modified terms for customers that cannot return to operations as they existed pre-COVID.

This subtitle will authorize DMPED to issue funds to Industrial Bank in an amount of \$1,000,000, for activities that support equitable economic recovery and increase access to loans, grants, financial services, and products to District residents, businesses, and community-based organizations.

¹²⁵ <https://nextcity.org/daily/entry/why-black-banks-need-policy-support-not-just-deposits>

¹²⁶ Ibid.

¹²⁷ <https://www.forbes.com/sites/nathanvardi/2020/06/19/the-2-solution-inside-billionaire-robert-smiths-bold-plan-to-funnel-billions-to-americas-black-owned-businesses/#9b3c1f24bc35>

Industrial Bank is a District of Columbia chartered, Black-owned bank. Black owned banks have historically served as a source credit and capital for Black people and businesses who continue to experience barriers accessing financial products and services.¹²⁸ Black-owned banks are essential to support equitable recovery for black-owned businesses following the COVID-19 because they are the best resource for black-owned businesses.

Barriers to financial services and products make it difficult for black owned businesses to succeed, even under stable economic conditions, and make it even more difficult for those businesses to recover following economic downturns.¹²⁹ Reports on the effect of the COVID-19 pandemic on the United States economy already make clear that black-owned business are being disproportionately impacted. According to a study by the Economic Policy Institute, black-owned businesses were more likely to be in industries hardest hit by COVID-19 related restriction.¹³⁰ Moreover, a higher share of Black business owners stopped working during COVID-19 lockdowns nationwide than did white, Hispanic, or Asian businesses owners.¹³¹

It is also clear from available recovery data that black-owned businesses are experiencing greater difficulty obtaining relief funds than are other businesses.¹³² According to a recent New York Times article, “[m]any small business are struggling during the pandemic because they lack easy access to loans”.¹³³ Black-owned small businesses, in particular, had difficulty getting approved for Paycheck Protection Program (PPP) relief funds due largely to the lack of preexisting relationships with larger banks that were early to administer those loans.¹³⁴ Black-owned banks are integral to equitable recovery because those banks provide access to financial relief and other resources for those businesses.

The PPP relied on utilizing mainstream financial institutions to deliver loans to small businesses. This approach favored existing more white customers while disadvantaging underbanked and unbanked MWBEs. According to the Small Business Credit Survey, “Large banks approve about 60% of loans sought by white small business owners, 50% of loans sought by Latino or Hispanic small business owners, and 29% of loans sought by Black small business owners.”

A major hurdle for minority business owners is that many banks allowed by the SBA to participate in the low-interest, forgivable loan program are only issuing loans to

¹²⁸ Samantha Masunaga & Taylor Avery, *Black-owned Businesses Face a System Set Up Against Them. COVID-19 Makes it Worse*, LA TIMES (June 20, 2020), <https://www.latimes.com/business/story/2020-06-20/black-owned-business-loans-banks>.

¹²⁹ See id.

¹³⁰ Id.

¹³¹ Lauren Leatherby, *Coronavirus is Hitting Black Business Owners Hardest*, NYTIMES (June 18, 2020), <https://www.nytimes.com/interactive/2020/06/18/us/coronavirus-black-owned-small-business.html?auth=login-email&login=email>.

¹³² Id.

¹³³ Leatherby, *supra* note 3.

¹³⁴ Masunaga & Avery, *supra* note 1.

existing clients in order to speed up the approval process. It is widely documented that businesses owned by persons of color and women are less likely to have commercial banking relationships. That is in part, why in 2018, the DC Council commissioned the Department of Insurance Securities and Banking (DISB) to conduct a study to determine the feasibility of establishing a public bank in the District.

The establishment of a public bank was being explored to enable the city to serve as a participation lender, partnering instead of competing against local banks in order to drive lending to small businesses and others that have been historically denied access to credit. However, the Executive, still has not released the study or made its findings available to the Council or to the public. Perhaps, this report could have assisted city leaders with linking minority- and women-owned firms to lenders and thus helping increase banking capacity. This inaction by the government has, once again, potentially put Black businesses at a disadvantage.

Providing DMPED with grant-making authority to issue funds to Industrial Bank will support the bank at a time when black-owned banks begins the process of addressing underlying structural inequities.¹³⁵ By supporting Industrial Bank, the District will help facilitate equitable recovery for the communities served by Industrial Bank.

a. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends DC Official Code § 1-328.04(d) to to provide the Deputy Mayor for Planning and Economic Development (“DMPED”) grant-making authority to issue funds to a District of Columbia chartered bank.

b. Legislative Recommendations for the Committee of the Whole

Sec. XXXX. Short title.

This subtitle may be cited as the “Deputy Mayor for Planning and Economic Development Grant Making Authority Amendment Act of 2020”.

Sec. XXXX. Section 2032 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012

¹³⁵ See, Jeanne Lee, *Why America Needs Black-owned Banks*, USA TODAY (Feb. 16, 2017), <https://www.usatoday.com/story/money/personalfinance/2017/02/16/why-america-needs-black-owned-banks/97892444/>.

(D.C. Law 19-168; D.C. Official Code § 1-328.04), is amended by adding a new subsection (i) to read as follows:

“(i) Notwithstanding § 1-328.13, the Deputy Mayor for Planning and Economic Development shall make a grant to a minority owned, District of Columbia chartered bank, in a minimum amount of \$1,000,000.00, for the purpose of activities that support an equitable economic recovery for the District of Columbia and increase access to loans, grants, financial services, and banking products to District of Columbia residents, businesses, nonprofits, and community-based organizations.”

B. RECOMMENDATIONS ON NEW PROPOSED SUBTITLES

The Committee on Business and Economic Development recommends the following new subtitles to be added to the “Fiscal Year 2020 Budget Support Act of 2019”:

7. Title --. Subtitle --. Adams Morgan Business Improvement District Tax Rate Amendment Act of 2020
8. Title --. Subtitle --. Equity Impact Enterprise Establishment Amendment Act of 2020
9. Title – Subtitle --. Small Business Recovery Task Force Establishment Act of 2020
10. Title – Subtitle --. Racial Equity Achieves Results Amendment Act of 2020
11. Title – Subtitle --. Equitable Impact Assistance for Local Business Act of 2020
12. Title – Subtitle --. Deputy Mayor for Planning and Economic Development Grant Making Authority Amendment Act of 2020
13. Title XX – Subtitle XXX --. Financial Institution Franchise Tax and Tax Haven Clarification Amendment Act of 2020
14. Title XX – Subtitle XXX --. Tax Deduction Clarification Amendment Act of 2020
15. Title XX – Subtitle XXX --. Wage Withholding Clarification Amendment Act of 2020

5. SUBTITLE XX. ADAMS MORGAN BUSINESS IMPROVEMENT DISTRICT TAX RATE AMENDMENT ACT OF 2020

e. Purpose, Effect, and Impact on Existing Law

This subtitle allows the Adams Morgan Business Improvement District (BID) to amend its bylaws, plan, and tax rate so that the board has time to vote on the new tax rate and submit it to the Mayor for review before fiscal year 2020 tax bills are issued.

f. Committee Reasoning

This subtitle is necessary in assisting businesses within the Adams Morgan BID.

g. Section-by-Section Analysis

Sec. 2091. States the short title.

Sec. 2092. Amends the BID Act to align the applicability of the tax changes within the Adams Morgan BID.

h. Legislative Recommendations for the Committee of the Whole

Sec. XX1. Short title.

This subtitle may be cited as the “Adams Morgan Business Improvement District Amendment Act of 2020”.

Sec. XX2. Section 206(c) of the Business Improvement District Act of 1996, effective March 8, 2006 (D.C. Law 16-56; D.C. Official Code § 2-1215.56(c)), is amended to read as follows:

“(c) The BID taxes for the taxable properties in the Adams Morgan BID shall not exceed \$.21 for each \$100 in assessed value for all taxable properties and all commercial portions of mixed use properties; provided, that any change in the BID taxes from the current tax year rates shall be made subject to the requirements of section 9.”.

6. SUBTITLE XX. EQUITY IMPACT ENTERPRISE ESTABLISHMENT AMENDMENT ACT OF 2020.

e. Purpose, Effect, and Impact on Existing Law

The Equity Impact Enterprise Establishment Act amends DC Official Code 2-218.01 *et seq.*, to create a new CBE designation for an equity impact enterprise; allows them to receive bid and preference points; provides preference under the Small Business Capital Access Fund; unbundles contracts; and establishes a program for equity impact enterprises.

f. Committee Reasoning

The District of Columbia has a compelling governmental interest to ensure small, local minority and women owned- businesses, and disadvantaged businesses in the District do not permanently close as a result of the COVID-19 public health emergency. Due to the public health emergency, it has been estimated that approximately one in four small businesses will permanently close. As data slowly emerges, it is becoming increasingly evident that minority and women-owned businesses will be disproportionately impacted.¹³⁶ Recent scholarship such as works from Brookings or the Center for Equitable Growth highlight how investing in minority and women-owned firms is essential to economic recovery. This subtitle then, is not only to assist businesses during recovery of the COVID-19 pandemic but also as the city and its businesses look to recovery and restoring our local economy. As such, the District must take immediate steps to remedy the harm that will befall businesses that fall within these categories as a result of this crisis.

The Committee agrees with the Mayor’s ReOpenDC Plan included a recommendation, to “Address the underlying structural disparities that contribute to racial/socioeconomic inequities in DC pre COVID-19, including access to capital and access to markets.”¹³⁷ The recommendations also encouraged policies that would provide all businesses equitable access to DC government resources and to establish key programs that support job creation and business expansion. The Committee has designed the equity impact enterprise program to accomplish these ends.

Unfortunately, to date, both local and Federal programs designed to assist small businesses are either not reaching businesses that qualify as an equity impact enterprise or will not be enough to sustain them throughout the duration of the COVID-19 crisis. At the Federal level, Congress allocated an initial \$350 billion to the Small Business Administration (SBA) to issue loans of up to \$10 million per business and up to \$10,000 in emergency grants to cover operating expenses. Out of the \$2.2 trillion coronavirus relief

¹³⁶Further, of these businesses in immediate-risk industries, 39% are female-owned, or equally female- and male-owned, compared to 29% of business in industries at near-term risk and 36% at long-term risk. Similarly, 20% of businesses in immediate-risk industries are run by Asian American or Black owners, compared to 7% of businesses in industries at near-term risk and 12% at long-term risk; Sifan Liu and Joseph Parilla, “Businesses owned by women and minorities have grown. Will COVID-19 undo that?” *Brookings*, Tuesday, April 14, 2020.. <https://www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/>

¹³⁷<https://coronavirus.dc.gov/sites/default/files/u65602/10.%20Retail%20and%20Small%20Business%20Summary.pdf>

bill, Congress allocated just \$10 million to the Minority Business Development Agency (MBDA) to support minority-owned firms, not even one percent of relief assistance.

As noted in a March City Lab article, local jurisdictions must consider the multitude of structural issues that often prevent black businesses from receiving equitable relief. These structural issues embedded in the fabric of this country continue to result in disparate outcomes. Outcomes such as Black-owned businesses start with approximately a third less capital than their white counterparts, that leave them with difficulty in raising private investments from mainstream investment systems.¹³⁸ The report notes, “Black people represented 12.7% of the U.S. population, but only 4.3% of the nation’s 22.2 million business owners in 2012.”¹³⁹

Other recent scholarship from Brookings Institute Fellow Andre Perry underscores how historic discrimination distorts how Black businesses as well as their assets in Black communities are undervalued. Yet another report found that highly rated businesses in Black-majority neighborhoods experience annual losses in business revenue as high as \$3.9 billion. Perry concluded that if we are to “achieve racial equity in the US.. we must find ways to restore the value of Black neighborhoods, which have been reduced by racism. The economy, and its people, stand to gain from anti-discrimination, anti-racist policies that increases capital flow to businesses in Black neighborhoods.”

JP Morgan Chase recently reported that racial gaps persist in liquid assets and put minorities at increased risk in facing economic volatility and income fluctuations, such as the ones being caused by the public health emergency.¹⁴⁰ They found that racial gaps in liquid assets (the sum of balances in one’s checking, prepaid debit cards, savings, money market, and certificates of deposit accounts) are twice as large as gaps in take-home income.

According to the SBA, four in five businesses are non-employers. Compared to employer owners, non-employer businesses are much more racially diverse. About one third of non-employer businesses are owned by minorities and four in ten are owned by women.¹⁴¹ Further, 9.9 million firms in the United States are owned by women, with 89.5 percent of those being non-employer firms. Approximately 79 percent of all white-owned businesses and 96 percent of Black-owned businesses are non-employer.

¹³⁸ Andre M. Perry, Jonathan Rothwell, and David Harshbarger, “Five-star reviews, one-star profits: The devaluation of businesses in Black communities,” Brookings, February 18, 2020. Accessed at <https://www.brookings.edu/research/five-star-reviews-one-star-profits-the-devaluation-of-businesses-in-black-communities/>

¹³⁹ Natalie Hopkinson and Andre Perry, “Black Businesses Left Behind in Covid-19 Relief,” City Lab, Accessed March 30, 2020, <https://www.citylab.com/perspective/2020/03/coronavirus-relief-racial-equity-black-business-covid-19/609055/>; according to analysis derived from the latest Census Survey of Business Owners. Asian Americans accounted for 6.9% of business owners and 4.8% of the population, while Latino or Hispanic Americans accounted for 12% of business owners and 16.4% of the population.

¹⁴⁰ Farrell, Diana, Fiona Greig, Chris Wheat, Max Liebeskind, Peter Ganong, Damon Jones, and Pascal Noel. 2020. “Racial Gaps in Financial Outcomes: Big Data Evidence.” JPMorgan Chase Institute. <https://institute.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-race-report-executive-summary.pdf>

¹⁴¹ <https://www.sba.gov/sites/default/files/advocacy/Nonemployer-Fact-Sheet.pdf>

According to the Sanford Institute for Economic Policy Research, only one percent of Black business owners obtained loans in their founding year, compared to seven percent of white business owners.

On average, minority and women-owned businesses have thirty percent fewer employees compared to male-or white-owned businesses. Research also shows that women-owned businesses, or businesses equally owned by a man and woman, face the highest degree of immediate and long-term risk amid the COVID-19 crisis. This was evident based on data from the Great recession of 2008. MWBEs suffered major losses during the economic recession of 2008. Joseph Prilla and Sifan Liu note that sixty percent of white-owned businesses that existed in 2002 were still around in 2011, compared to just forty-nine percent of Black-owned firms.¹⁴²

Other economist such as UC Irvine’s Baradaran speak to how historic patterns of discrimination subject smaller and often firms owned by minorities to greater uncertainty during economic crisis noting that MWBEs are “undercapitalized and highly vulnerable to any dip or sway in the economy.”¹⁴³ Further, a 2017 study from the Federal Reserve Banks of Atlanta and Cleveland found that Black business owners apply for funds at a ten percent higher rate than white-owned firms, but their approval rates are nearly twenty percent lower. The report also noted that when black entrepreneurs do get approved for financing, only forty percent receive the full amount they requested, compared to seventy percent of white business owners. Anecdotally, the study highlighted that forty percent of Black business owners surveyed are so pessimistic about their chances of being approved for bank loans that they do not even apply.¹⁴⁴

For these reasons, the Committee recommends this subtitle.

g. Section-by-Section Analysis

Sec. XX1. States the short title.

Sec. XX2. Amends the CBE Act to create a new program for equity impact enterprises. Amends the unbundling and rulemaking requirement; and requires the Mayor to establish a pilot program for equity impact enterprises, allowing them to receive preference under the Small Business Capital Access Fund, and creates the CBE designation for an equity impact enterprise.

¹⁴² Liu and Parilla, Brookings. <https://www.brookings.edu/blog/the-avenue/2020/03/25/what-the-great-recession-can-tell-us-about-the-covid-19-small-business-crisis/>

¹⁴³ Kara Voght, “You’re Just Screwed”: Why Black-Owned Businesses Are Struggling to Get Coronavirus Relief Loans,” Mother Jones, April 24, 2020, Accessed at <https://www.motherjones.com/politics/2020/04/youre-just-screwed-why-black-owned-businesses-are-struggling-to-get-coronavirus-relief-loans/>

¹⁴⁴ <https://www.clevelandfed.org/en/newsroom-and-events/press-releases/2017/pr-20171108-atlanta-and-cleveland-feds.aspx>

Sec. XX3. Amends Section 2 of the Minority and Women-Owned Business Assessment Act of 2008, to ensure all agencies with procurement authority collect and accurately track and report spend data and requires the Mayor to undertake a true disparity study.

h. Legislative Recommendations for the Committee of the Whole

Sec. XXX1. Short title.

This subtitle may be cited as the “Equity Impact Enterprise Establishment Amendment Act of 2020”.

Sec. XXX2. The Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding a new part D-i to read as follows:

“ Part D-i. Programs for equity impact enterprises.”.

(b) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding a new paragraph (8A) to read as follows:

“(8A) “Equity impact enterprise” means a business enterprise that is a resident-owned business or a small business enterprise that can demonstrate that the enterprise is:

“(i) At least 51% owned by an individual who is, or a majority number of individuals who are, Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx;

“(ii) At least 51% owned by a woman or a majority of women; or

“(iii) Is a disadvantaged business enterprise.”.

(c) Section 2343(a) (D.C. Official Code § 2-218.43(a)) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Subparagraph (G) is amended by striking the word “and”.

(B) Subparagraph (H) is amended by striking the period and inserting a semicolon in its place.

(C) A new subparagraph (I) is added to read as follows:

“(I) Five points for an equity impact enterprise.”.

(2) Paragraph (2) is amended as follows:

(A) Subparagraph (G) is amended by striking the word “and”.

(B) Subparagraph (H) is amended by striking the period and inserting a semicolon in its place.

(C) A new subparagraph (I) is added to read as follows:

“(I) Ten percent for an equity impact enterprise.”.

(d) Section 2347 (D.C. Official Code § 2-218.47) is amended to read as follows:

“Sec. 2347. Unbundling requirement; rulemaking requirement.

“(a)(1) No later than January 1, 2021, the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules on unbundling that include procedures to ensure that solicitations are subdivided and unbundled and that smaller contracts are created to the extent feasible and fiscally prudent.

“(2) The proposed rules required by paragraph (1) of this subsection shall be submitted to the Council for a 30-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules by resolution within the 30-day review period, the proposed rules shall be deemed approved.

“(b) Beginning on January 1, 2021 and quarterly thereafter, the Department shall publicly make available on its website solicitations that have been subdivided and unbundled.

“(c) Five years from the effective date of the Equity Impact Enterprise Establishment Amendment Act of 2020, as introduced on May 18, 2020 (Bill 23-760), the Mayor shall evaluate the effectiveness of the equity impact enterprise program and whether or not it has resulted in creating more contracting opportunities for equity impact enterprises, and submit the evaluation to the Council.

“(d) The Department shall provide targeted technical assistance, networking opportunities, and vendor workshops to prepare equity impact enterprises to compete for contracting and procurement opportunities.”.

(e) Section 2349(b) (D.C. Official Code § 2-218.49 (b)) is amended to read as follows:

“(b) No later than October 1, 2020, the Mayor shall implement a pilot program for equity impact enterprises.”.

(f) Section 2375(d)(1) (D.C. Official Code § 2-218.75(d)(1)) is amended by striking the phrase “or a resident-owned business enterprises pursuant to section 2235” and inserting the phrase “a resident-owned business enterprise pursuant to section 2235, or an equity impact enterprise as defined in section 2302(8A)” in its place.

(g)(1) A new Part D-i is added to read as follows:

“Part D-i. Programs for Equity impact enterprises.

“Sec. 2377. Equity impact enterprise.

“An equity impact enterprise, as defined in section 2302(8A), shall be eligible for certification as an impact enterprise.”.

Section xxx3. Section 2 of the Minority and Women-Owned Business Assessment Act of 2008, effective March 26, 2008 (D.C. Law 17-136; D.C. Official Code § 2-214.01), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Paragraph (2) is amended by striking the word “and” at the end.

(2) Paragraph (3) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (4) is added to read as follows:

“(4) Ensure all agencies with procurement authority are trained to evaluate, collect, and accurately track spend data for equity impact enterprises, minority-owned prime contractors and subcontractors, and women-owned prime contractors and subcontractors.”.

(b) Subsection (b-1) is amended as follows:

(1) The lead in text of paragraph (1) is amended to read as follows:

“In Fiscal Year 2020, The Mayor shall award a grant, on a competitive basis, in an amount not to exceed \$ 1 million to a person or entity to conduct a District-based study (“disparity study”) to.”.

(2) A new paragraph (1A) is added to read as follows:

“(1A) All agencies with procurement authority shall coordinate with the Executive Office of the Mayor to provide timely and accurate information to assist with the completion of the disparity study.”.

(3) Paragraph (2) is amended by striking the phrase “270 days after October 30, 2018” and inserting the phrase “360 days after October 30, 2020 in its place.

7. SUBTITLE XX. BUSINESS RECOVERY TASK FORCE ESTABLISHMENT ACT OF 2020.

e. Purpose, Effect, and Impact on Existing Law

The purpose of this subtitle is to establish the Business Recovery Task Force (Task Force) to provide recommendations to the Mayor and Council regarding the recovery of the District’s businesses following the end of the COVID-19 emergency.

f. Committee Reasoning

With one of every four businesses facing permanent closure, the District should utilize all resources across the city, both public and private to facilitate in an equitable recovery.

g. Section-by-Section Analysis

- Sec. xxx1. States the short title.
- Sec. xxx2. Contains membership, appointment, staff, and meetings.
- Sec. xxx3. Contains a reporting requirement
- Sec. xxx4. Contains definitions
- Sec. xxx5. Includes a sunset provision.

h. Legislative Recommendations for the Committee of the Whole

Sec. 2xx1. Business Recovery Task Force establishment.

There is established the Business Recovery Task Force (“Task Force”) to provide recommendations to the Mayor and Council regarding the recovery of the District’s small businesses following the end of the COVID-19 emergency.

Sec. 2xx2. Membership; appointment; staff; meetings.

(a) The Task Force shall be composed of:

(1) The following government members, or their designees:

(A) The Deputy Mayor for Planning and Economic Development;

(B) The Director of the Department of Small and Local Business Development; and

(C) The Chairperson of the Council's Committee on Business and Economic Development; and

(2) Eight representatives of small business enterprises, one from each Ward, all of whom shall be District residents, who collectively represent industries and geographical areas hardest hit by the COVID-19 emergency, with at least one representative being an owner of a equity impact enterprise as defined by section 2302(8A) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(8A)) ("CBE Act").

(b) The small business representatives shall be appointed by the Chairman of the Council from recommendations made by the Chairperson of the Council Committee on Business and Economic Development, and shall serve without compensation.

(c) The Chairperson of the Task Force shall be designated by the Chairperson of the Council's Committee on Business and Economic Development.

(d) The Department of Small and Local Business Development ("Department") shall provide administrative support for the Task Force.

(e) If when all the members have been appointed and the Task Force is functioning, the COVID-19 emergency is still in effect, the Task Force shall convene monthly. After the COVID-19 emergency has been lifted, the Task Force shall meet not less frequently than quarterly until dissolution and provide the Department with recommendations to support small business enterprises.

Sec. xxx3. Reporting requirement.

Within xxx days after the appointment of the appointed members, the Task Force shall submit a report to the Mayor and the Council that addresses the following:

(1) Recommendations to identify and access available technical and financial assistance opportunities, including the Small Business Administration Disaster Relief funds and other federal funds as they become available;

(2) Support for outreach and educational efforts to small businesses; and

(3) Long-term policy recommendations for economic recovery of small businesses following the COVID-19 emergency.

Sec. xxx4. Definitions.

For the purposes of this subtitle, term:

(1) “COVID-19 emergency” means the public health emergencies declared in the Declaration of Public Emergency (Mayor’s Order 2020-045) together with the Declaration of Public Health Emergency (Mayor’s Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.

(2) “Small business enterprise” shall have the same meaning as provided in 2302(16) of the CBE Act.

Sec. 2xx5. Sunset.

The Task Force shall dissolve and this subtitle shall expire as of the date the Task Force submits the report required by section xxx3.

8. SUBTITLE XX. RACIAL EQUITY ACHIEVES RESULTS AMENDMENT ACT OF 2020.

e. Purpose, Effect, and Impact on Existing Law

Decades of structural and institutional racism against black people in the District and across this country has created widespread racial inequities. These inequities are pervasive and have gone unchecked for far too long. As a result, disparate outcomes persist across nearly every indicator of success including in education, criminal justice, employment, housing, environmental justice, health, and business.

With the onset of COVID-19, it has become evident that for many black residents across the District, there exists two pandemics, one being COVID-19, the other, racism. These issues, unfortunately, are not new. In fact, one could argue, as Ibram X Kendi does, that racism has its roots in the foundation of this country. He would not be alone in that argument, and in fact joins a long list of historians and scholars from W.E.B. Du Bois, to Robin D.G. Kelly, David Blight, and Michelle Alexander.

Now is the time that local governments can and should take bold steps and remedies to correct the wrongs created by centuries of racist policies that have negatively affected black residents. Policies such as segregation, redlining, and predatory lending practices and their devastating impact on black communities certainly merit conversations of economic redress, but at the very least underscore the importance of righting the wrongs of the ever-present manifestations of centuries of systemic and institutionalized racism.

f. Committee Reasoning

This legislation moves the work of the District on racial equity forward in bold and meaningful steps. The DC Council is determined to form a government that is intentional in attacking the racial inequities that have plagued the city since its inception. Through structure, policy, and program changes, disparities will decrease and diversity and inclusion will become the standard.

It is evident that the neglect of specific action to oppose racial inequity has failed people of color in all segments of the community. As the Nation's Capital, we are well positioned to be a model city that eliminates racial disparities and confronts racial injustice. DC government has fallen short in being a community for all races, and the impact has been devastating. The only route for healing is a concerted effort to reverse the overlooked impact.

g. Section-by-Section Analysis

- Sec. xxx1. States the short title.
- Sec. xxx2. Establishes the Office of Racial Equity.
- Sec. xxx3. Establishes the Council Equity Assessment Program.
- Sec. xxx4. Establishes the Commission on Racial Equity, Social Justice and Economic Inclusion.
- Sec. xxx5. Contains definitions.
- Sec. xxx6. Amends the Office of Human Rights Establishment Act of 1999 to require the Office of Racial Equity, in coordination with the Office on Human Rights to conduct racial equity trainings.
- Sec. xxx7. Amends Chapter 3 of Title 47 of the District of Columbia Official Code to require the Office of Racial Equity, in coordination with the Executive to design and implement a racial equity tool.

h. Legislative Recommendations for the Committee of the Whole

Sec. xxx1. Short title.

This subtitle may be cited as the “Racial Equity Achieves Results Amendment Act of 2020”.

Sec. xxx2. Establishment of the Office of Racial Equity.

(a) There is established an Office of Racial Equity within the executive branch of the District government within the Office of the City Administrator. The purpose of the Office shall be to coordinate the District’s efforts towards achieving racial equity.

(b)(1) The Office shall be headed by a Chief Equity Officer (“CEO”), who shall be appointed by the Mayor with the advice and consent of the Council pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3,1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(2) The CEO shall be a fulltime position, for which annual compensation shall be fixed in accordance with Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124: D.C. Official Code § 1-610.51 *et seq.*).

(3) The CEO shall have such staff as is appropriated in an approved budget and financial plan.

(c) The Office shall be responsible for:

(1) Establishing a structure to develop, provide oversight of, and advance the District's goals towards achieving racial equity;

(2) Coordinating with the Office of Human Rights to produce racial equity training materials to be distributed to the District government;

(3) Coordinating with Executive agencies in development of annual metrics and the development of a Racial Equity Action Plan;

(4) Collaborating with the Commission; and

(5) Analyzing the feasibility of expanding the Racial Equity Action Plan to include:

(A) The District's contracting and procurement process;

(B) The District's hiring and promotion process; and

(C) The development of effective systems to capture, coordinate, and share racial equity data across agencies.

(d) Reporting requirements.

By October 1, 2022, in collaboration with the Commission, the CEO shall submit the Racial Equity Action Plan to the Mayor and the Council, and by October 1 annually

thereafter, the Office shall report to the Mayor and Council on the Office's efforts to coordinate actions, goals, and District-wide investments within the executive branch to further racial equity and provide a summary of the programs and activities of the Office and an independent evaluation of the District's efforts to achieve racial equity.

Sec. xxx3. Council Equity Assessment Program.

(a) There is established within the Council of the District of Columbia a Council Equity Assessment Program (Equity Assessment Program).

(b) The Equity Assessment Program shall be managed by a Council Equity Coordinator. The Council shall, by resolution, appoint the Coordinator, who shall serve at the pleasure of the Council.

(c) In addition to duties and guidelines developed by the Council, the Coordinator shall be responsible for:

(1) Producing racial equity training materials and providing ongoing racial equity training for Council staff;

(2) Developing a plan and protocol for conducting Racial Equity Impact Assessments for legislation before the Council, including the:

(A) Type of legislation for which REIAs will be conducted, including prioritization or tiered approach, if necessary; and

(B) Timeline and process for developing a REIA;

(3) Collaborating with the Commission;

(4) Preparing REIAs that shall, at a minimum, include:

(A) The potential racial equity impact of enacting the measure; and

(B) A statement of the basis for the estimated impact and the sources of information, assumptions, and methodologies used; and

(5) By October 1, 2022, and every 3 years thereafter, publishing a summary of the Program's activities and an analysis of the REIAs issued during the time covered by the report.

(d) The findings of a REIA shall be non-binding but provide members with a comprehensive picture of the racial equity impact of a proposed measure.

Sec. xxx4. Commission on Racial Equity, Social Justice and Economic Inclusion.

(a) The Commission on Racial Equity, Social Justice, and Economic Inclusion is established as an independent agency within the District of Columbia government, consistent with the meaning of the term independent agency as provided in section 301(13) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(13)).

(b) The Commission shall:

(1) Work with, and seek regular input and advice from, the CEO and the Coordinator;

(2) Work with District government agencies to promote inter-agency collaboration, problem-solving, and cooperation relating to racial equity, social justice, and economic inclusion for all District residents; and

(3) Collaborate and serve as a resource to the Coordinator in developing guidelines and processes for implementing Racial Equity Impact Assessments.

(4) Establish a process to develop and distribute information about racial equity, social justice, and economic inclusion;

(5) Advise the Council, the Executive, and Executive agencies about racial equity, social justice, and economic inclusion in the District, and recommend policies, programs, or regulations necessary to reduce racial, social, and economic inequity;

(6) Keep a record of its activities and minutes of all meetings, which shall be kept on file and open to the public upon request;

(7) Develop and distribute information about racial equity, social justice, and economic inclusion;

(8) Meet periodically with the CEO and Executive agencies;

(9) Promote educational activities that increase the understanding of racial equity, social justice, and economic inclusion;

(10) Recommend coordinated strategies for reducing racial, social, and economic inequities; and

(11) Submit an annual report by March 1 of each year to the Executive and Council on the activities of the Commission.

(c)(1) The Commission shall consist of 9 members appointed by the Mayor with the advice and consent of the Council pursuant to section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)).

(2) Members shall be District residents and appointed with due consideration from established public, nonprofit, and volunteer community organizations, community leaders, academic institutions, and other individuals who have shown dedication and knowledge of advancing racial equity or social justice.

(d)(1) A member appointed pursuant to subsection (c) of this section shall serve a term of 3 years; except, that of the initial members, 5 shall be appointed for a term of 3

years and 4 shall be appointed for a term of 2 years. A member may be reappointed but shall not serve more than 3 consecutive terms.

(2) If a member appointed pursuant to subsection (c) of this section leaves the Commission prior to the expiration of the term, the Mayor shall appoint, with the advice and consent of the Council, a successor to fill the unexpired portion of the term in accordance with section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)).

(e) The appointed members shall bi-annually designate from among them, a Chairman, who shall serve in that capacity and shall be, or shall become within 180 days of hire, a resident of the District of Columbia.

(f)(1) All members shall serve without compensation; except, that expenses incurred by the Commission as a whole, or by a group of its members, may be compensated.

(2) Individual members may be compensated for reasonable expenses incurred in the performance of their official duties, as approved by the Executive Director.

(3) Compensation provided pursuant to this subsection shall become an obligation against appropriated District funds designated for that purpose.

(g)(1)(A) The Commission shall appoint an Executive Director who shall be the chief administrative officer of the Commission. The Executive Director shall not be a member of the Commission.

(B) The Executive Director shall be:

(i) Appointed for a renewable 4-year term;

(ii) A District resident throughout his or her term, provided, that the appointee shall have 180 days in which to become a resident; provided further, that the failure to maintain District residency shall be cause for removal; and

(iii) Removed only for cause.

(2) The Executive Director shall:

(A) Manage the business affairs of the Commission;

(B) Hire and supervise staff, if any, hired to assist the Commission and the Executive Director;

(C) Perform, or supervise staff in the performance of, administrative duties as may be required by the Commission; and

(D) Perform all other duties as the Commission may require to carry out the provisions of this act.

(3) The Executive Director shall receive an annual salary equivalent to that of an executive director of an independent commission on an ED (ES9) pay schedule.

(h)(1) The Executive Director shall serve as the personnel authority for all employees of the Commission; except, that the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code 1-601.01 *et. seq.*) shall apply.

(2) In addition to the authority to hire staff, the Executive Director shall have the authority to obtain appropriate office space, equipment, materials, and services necessary to carry out the responsibilities of the Commission.

(i) The Mayor may remove, after notice and hearing, any member of the Commission, including the Chairman, for neglect of duty, incompetence, misconduct, or malfeasance in office, with consent of the Council.

(j) The Commission shall be responsible for working with District government agencies, including the Office and Coordinator to promote inter-agency collaboration, problem-solving, and cooperation.

(k) The Commission shall meet as necessary to conduct its official business but shall meet at least once per quarter and may use space and supplies owned or rented by the District government for purposes consistent with this act.

(l) The Commission may conduct public hearings, receive testimony, and call witnesses to assist the Commission in the exercise of its powers.

(m) Agencies of the District of Columbia government shall cooperate in providing such information to the Commission as may be necessary to fulfill its statutory responsibilities

(n) The Commission shall develop its rules and procedures.

Sec. xxx5. For the purposes of sections 2 through 4, the term:

(1) “Commission” means the Commission on Racial Equity, Social Justice and Economic Inclusion.

(2) “Coordinator” means the Council Equity Coordinator, as established by section 3.

(3) “Office” means the Office of Racial Equity established by section 2.

(4) “Racial Equity” means the moment when race can no longer be used to predict life outcomes and outcomes for all groups are improved, in particular for persons of color.

(5) “Racial Equity Action Plan” means a formalized accountability plan, including specific timelines, used by an agency to advance racial equity in the performance of its duties.

(6) “Racial Equity Impact Assessments” or “REIA” means an estimate of the change in racial equity in the District attributable to a proposed change in the law.

Sec. xxx6. The Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*), is amended as follows:

(a) A new section 206b is added to read as follows:

“Sec. 206b. Racial equity training.

“(a) “The Office, in coordination and consultation with the Department of Human Resources (“DCHR”) and the Office of Racial Equity, shall provide, on an on-going basis, racial equity training for all District government employees and members of the District’s boards and commissions.

“(b) The Office and DCHR shall conduct racial equity workshops for District employees at the management level.

“(c) The Office shall coordinate with DCHR to develop, pilot, and implement a training series for District employees that equips personnel with better identifying and addressing issues of racial equity.

“(d) The Office and DCHR shall coordinate to develop online and in-person racial equity and inclusion courses that focus on the meaning of diversity, the benefits of a diverse workforce, and barriers that prevent a racially inclusive workforce environment.

“(e) For the purposes of this section, the term “racial equity” means policies and resources to ensure that race is no longer a determining factor in employment and to reduce structural racism.”.

Sec. xxx7. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-308.01 is amended by adding a new subsection (h) to read as follows:

“(h)(1) By March 1, 2021, in coordination with the Office of the City Administrator, the Office of Racial Equity, established by section 2 of Racial Equity Achieves Results Amendment Act of 2020, as introduced on May 18, 2020 (Bill 23-760) (Racial Equity Act”), shall design and implement a racial equity tool to help District agencies incorporate racial equity into their operations, performance-based budgets, programs, policies, rules, and regulations, and to ensure alignment between departmental and District-wide programs and initiatives.

“(2) The Office of Racial Equity shall coordinate with relevant executive agencies and the Commission, pursuant to the Racial Equity Act to identify and address equity issues, establish priorities, establish baseline data, and implement strategies across the District.

“(3) At a minimum, the Mayor shall use the racial equity tools developed under the Racial Equity Act and by the Commission to:

“(A) Identify clear strategic initiatives, objectives, and measurable outcomes;

“(B) Develop metrics to measure progress in redressing disparate social and economic outcomes in the District based on race, sex, and ethnicity;

“(C) Track and measure how programmatic and policy decisions benefit or burden individuals based on race, sex, or ethnicity;

“(D) Examine potential unintended consequences of a policy or programmatic decision and develop a strategy to advance racial equity and mitigate unintended negative consequences; and

“(E) Evaluate the efficacy of District agencies strategic initiatives and programs aimed at reducing disparate outcomes.

“(4) Beginning in Fiscal Year 2022, and every year thereafter, the Mayor’s budget submission package to Council shall include a summary of how the proposed budget advances racial equity in the District, reduces disparate outcomes, and allocates resources to support equitable outcomes.”.

(b) Section 47-308.02 is amended by adding a new subsection (g) to read as follows:

“(g) Beginning no later than Fiscal Year 2022, and for each subsequent fiscal year, the Mayor shall establish at least one performance measure related to an agency’s progress toward achieving racial equity.”.

(c) Section 47-308.03(c)(1) is amended by striking the phrase “agency’s performance on its activities for” and inserting the phrase “agency’s performance on its activities, including those relating to achieving racial equity, for” in its place.

5. SUBTITLE XX. EQUITABLE IMPACT ASSISTANCE FOR LOCAL BUSINESS

f. Purpose, Effect, and Impact on Existing Law

This subtitle establishes the Equity Impact Fund to provide investments in eligible businesses that experience barriers to accessing capital from tradition sources.

g. Committee Reasoning

Minority and women owned businesses often lack access to conventional financing options.¹⁴⁵ This subtitle will address this gap in access by establishing the Equity Impact Fund. This will be as a fund outside the General Fund of the District of Columbia that is managed by a third-party Fund Manager. The Fund Manager will be selected by the Mayor based on criteria set forth in the subtitle, and preference will be given for Fund Managers who are themselves minority or women owned entities. The Fund Managers will use the Fund to make investments in Equity impact enterprises, which are defined in the subtitle as resident owned or small business that are majority owned by minorities or women, or that are disadvantaged enterprises. The subtitle would also authorize the District to provide an initial investment of \$1.5 million dollars for the Fund once a Fund Manager is selected.

h. Section-by-Section Analysis

- Sec. XXXX. States the short title.
- Sec. XXXX. Provides definitions.
- Sec. XXXX. Establishes the Equity Impact Fund.
- Sec. XXXX. Provides criteria for the Fund Manager and establishes requirements for the selection of a Fund Manager.
- Sec. XXXX. Provides minimum requirements for investments made from the Fund.
- Sec. XXXX. Establishes reporting requirements for the Fund Manager.
- Sec. XXXX. States that the Mayor will reserve the right to recover the amount of the District’s initial investment into the Fund if investments are not made in eligible businesses in a reasonable period of time.

¹⁴⁵ See generally, Ellen Sheng, *This Underfunded Female Demographic is Launching the Most Start-ups in America, Far from Silicon Valley*, CNBC (Feb. 25, 2020), <https://www.cnbc.com/2020/02/25/underfunded-female-demographic-is-launching-the-most-start-ups-in-us.html>; Kimber Lanning, *Lack of Access to Capital is Crippling the US Small Business Sector in Communities of Color*, INTERISE (July 11, 2019) <https://interise.org/lack-of-access-to-capital-is-crippling-the-us-small-business-sector-in-communities-of-color/>.

i. Legislative Recommendations for the Committee of the Whole

Sec. xxx1. Short title.

This subtitle may be cited as the “Equitable Impact Assistance for Local Businesses Act of 2020”.

Sec. xxx2. Definitions.

For the purposes of this subtitle, the term:

(1)(A) “Eligible business” means an equity impact enterprise that has \$2 million or less in annual revenue and certifies in writing that the business is unable to obtain conventional financing or is a business enterprise that cannot reasonably be expected to qualify for financing under the standards of commercial lending.

(B) For the purposes of this paragraph, the phrase “unable to obtain conventional financing” means that the business has attempted but failed in the attempt to obtain financing from conventional sources.

(2) “Equity impact enterprise” means a business that is a resident-owned business or a small business enterprise, as those terms are defined, respectively, in section 2302(15) and (16) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(15) and (16)), that can demonstrate that the enterprise is:

(A) At least 51% owned by an individual who is, or a majority number of individuals who are, Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx;

(B) At least 51% owned by a woman or a majority of women; or

(C) Is a disadvantaged business enterprise.

(3) “Fund” means the Equity Impact Fund established in section xxx3.

(4) “Fund Manager” means a private financial organization selected by the Mayor pursuant to section xxx4.

(5) “Minority” includes individuals who are Asian, Pacific Islander, African American or Black, Native American, Native Hawaiian, or Latinx.

(6) “Private financial organization” means a partnership, corporation, trust, limited liability company, Community Development Financial Institution, or a consortium of partnerships, corporations, trusts, limited liability companies, or Community Development Financial Institutions, whether organized on a profit or not-for-profit basis, that has as its primary activity the investment of capital into businesses.

Sec. xxx3. Establishment of the Equity Impact Fund.

(a) There is established a fund outside the General Fund of the District of Columbia, designated as the Equity Impact Fund (“Fund”), which shall be managed by a Fund Manager selected by the Mayor. The Deputy Mayor for Planning and Economic Development shall provide, upon selection of the Fund Manager, \$1.25 million in the aggregate in Fiscal Year 2021 for deposit into the Fund (“District’s initial investment”).

(b) The Fund shall be funded by money appropriated for the purposes of the Fund, other amounts, if any, received by the District or Fund Manager for deposit into the Fund, and any monies received as gifts, grants, donations, and awards.

(c) The funds in the Fund shall be used solely to:

(1) Facilitate investment in businesses that lack access to capital;

(2) Make investments into eligible businesses based on an investment strategy determined by the Fund Manager; and

(3) Administer the fund, including the provision of technical assistance to eligible businesses; provided that no more than 15% of the District's initial investment may be used annually for this purpose.

Sec. xxx4. Fund Manager selection.

(a) The Mayor shall solicit applications, in a form determined by the Mayor, for the position of Fund Manager from private financial organizations. The application shall contain description of:

(1) The qualifications of the applicant, including demonstratable experience in investing in small business, businesses owned by women or minorities, or in businesses that otherwise meet the definition of, or are similar to, an equity impact enterprise;

(2) How the applicant will structure the Fund and investment criteria to achieve the goals and objectives of the Fund;

(3) The ability and plans of the applicant to provide or raise sufficient funds to provide matching contributions for the Fund;

(4) The ability of the applicant to maintain a sufficient fund balance to administer the Fund;

(5) The type of businesses to be targeted for priority investment from the Fund;

(6) A demonstrable ability to offer a variety of financing vehicles, including equity financing, revenue-based financing, royalty financing, and debt financing;

(7) The investment strategies the applicant will employ to achieve the goals and objectives of the Fund; and

(8) Other criteria that the Mayor considers necessary or appropriate.

(b) An applicant for Fund Manager shall be selected based on a scoring rubric established by the Mayor; provided, that:

(1) A preference be given to applicants that are at least 51% owned, operated, or controlled by women or minorities; and

(2) If the applicant manages an existing investment fund, the existing fund not exceed \$100,000,000.

Sec. xxx5. Minimum requirements for investment.

(a) The Fund Manager shall source, underwrite, and monitor all investments placed pursuant to this act. Except as otherwise provided by this act, the Mayor shall not determine the recipient, amount, interest rate, or any other requirement related to an investment made pursuant to this act.

(b) The following requirements shall apply to any investment in an eligible basis made from the Fund using the District's initial investment or proceeds thereof:

(1) The Fund Manager shall begin accepting applications from eligible businesses seeking investment, on a rolling basis, within 30 days of being selected for the position by the Mayor.

(2) For the Fund Manager to provide an investment from the Fund, the eligible business must agree, in writing, to participate in technical assistance training.

(3) The Fund Manager shall establish, for each selected eligible business, a 12-month individualized business plan. Investments shall be distributed to the eligible

business in installments based upon completion of specific milestones clearly described in the business's individualized business plan. The individualized business plan shall include technical assistance, provided at no cost to the business, which shall include education on the management and scale of a business through live training or guided recorded sessions. All eligible businesses that receive an investment from the Fund shall be required to participate in at least 3 months of technical assistance training.

Sec. xxx6. Reporting requirements.

(a) The Fund Manager shall submit to the Mayor, on a quarterly basis, a report on the activities of the Fund. The report shall include, at a minimum:

(1) The aggregate amount of dollars invested in eligible businesses during the reporting period;

(2) The number of eligible businesses receiving an investment, including the name and business address for each;

(3) A copy of the individualized business plan for each eligible business, including a description of the technical assistance training provided; and

(4) The aggregate amount of funds in the Fund and a breakdown of the amount of the funds in the Fund used for each of the following, with each amount reported as a percentage of the aggregate amount of the Fund:

(A) The percentage used for technical training assistance;

(B) The percentage used for administration costs; and

(C) The percentage used to compensate the Fund Manager.

Sec. xxx7. Recovery of District investment.

The Mayor shall reserve the right to recover the amount of its initial investment into the Fund and may exercise this right if the Fund Manager does not, within a reasonable period of time, as determined by the Mayor, place investments into eligible businesses in an amount equal to the amount of the District’s initial investment into the Fund.

6. SUBTITLE XX. DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT GRANT-MAKING AUTHORITY AMENDMENT ACT OF 2020

j. Purpose, Effect, and Impact on Existing Law

This subtitle amends DC Official Code § 1-328.04(d), to provide the Deputy Mayor for Planning and Economic Development (“DMPED”) grant-making authority to issue funds to certain District chartered banks.

Systemic racism pervades every institution and aspect of society in the District of Columbia. In few areas is this more apparent than in the banking industry. History is replete with examples of how Black people faced discrimination in banking and were effectively precluded from traditional avenues—access to capital, low-interest loans, mortgage lending, etc.—that led to wealth creation for white people.

Black banks have historically served as a source of credit and capital for black people and Black businesses. Even in distressed communities, Black banks served as engines for economic renewal for Black people. During economic slowdowns, however, Black banks generally struggle financially more than other banks because the communities they serve typically suffer higher rates of unemployment and business closure.¹⁴⁶

“At best, banks that serve Black communities have been left to fend for themselves, while public policies provided an extra boost to banks serving exclusively white communities. At worst, policymakers from both parties have held up historically Black banks as a way of distracting from structural changes necessary to address the racial wealth gap in the United States.”¹⁴⁷

As noted in a recent Forbes article, Robert Smith, the private equity billionaire and America’s richest Black person, “discovered the structural racism in banking firsthand as he tried to help Black businesses and banks that serve Black communities obtain Paycheck Protection Program loans. Smith found that Black-owned businesses faced numerous structural obstacles and as a result had trouble accessing the emergency financing being provided by the federal government through the banking sector.”¹⁴⁸

¹⁴⁶ <https://nextcity.org/daily/entry/why-black-banks-need-policy-support-not-just-deposits>

¹⁴⁷ Ibid.

¹⁴⁸ <https://www.forbes.com/sites/nathanvardi/2020/06/19/the-2-solution-inside-billionaire-robert-smiths-bold-plan-to-funnel-billions-to-americas-black-owned-businesses/#9b3c1f24bc35>

b. Committee Reasoning

During the 2016 Congressional Black Caucus Conference, Congressman Bobby Rush noted that he expected there to be no remaining Black-owned banks by 2025. As such, immediate actions must be taken by the government to ensure a robust loan loss reserve program is in place to ensure the survival of the District's only DC Chartered Bank. This subtitle would allow the bank to disburse funds to loan under special program(s) to Business customers to supplement the deferrals and/or PPP loans. Funding for bank customers that have been significantly impacted by looting. Without immediate steps from the Government, customers will continue to face concerns of unfavorable/modified terms for customers that cannot return to operations as they existed pre-COVID.

This subtitle will authorize DMPED to issue funds to a District Chartered bank, so long as that bank was chartered within DC at the time of the Public Health Emergency, or March 11, 2020, in an amount of \$1,000,000, for activities that support equitable economic recovery and increase access to loans, grants, financial services, and products to District residents, businesses, and community-based organizations.

Black owned banks have historically served as a source credit and capital for Black people and businesses who continue to experience barriers accessing financial products and services.¹⁴⁹ Black-owned banks are essential to support equitable recovery for black-owned businesses following the COVID-19 because they are the best resource for black-owned businesses.

Barriers to financial services and products make it difficult for black owned businesses to succeed, even under stable economic conditions, and make it even more difficult for those businesses to recover following economic downturns.¹⁵⁰ Reports on the effect of the COVID-19 pandemic on the United States economy already make clear that black-owned business are being disproportionately impacted. According to a study by the Economic Policy Institute, black-owned businesses were more likely to be in industries hardest hit by COVID-19 related restriction.¹⁵¹ Moreover, a higher share of Black business owners stopped working during COVID-19 lockdowns nationwide than did white, Hispanic, or Asian businesses owners.¹⁵²

It is also clear from available recovery data that black-owned businesses are experiencing greater difficulty obtaining relief funds than are other businesses.¹⁵³ According to a recent New York Times article, “[m]any small business are struggling

¹⁴⁹ Samantha Masunaga & Taylor Avery, *Black-owned Businesses Face a System Set Up Against Them. COVID-19 Makes it Worse*, LA TIMES (June 20, 2020), <https://www.latimes.com/business/story/2020-06-20/black-owned-business-loans-banks>.

¹⁵⁰ See id.

¹⁵¹ Id.

¹⁵² Lauren Leatherby, *Coronavirus is Hitting Black Business Owners Hardest*, NYTIMES (June 18, 2020), <https://www.nytimes.com/interactive/2020/06/18/us/coronavirus-black-owned-small-business.html?auth=login-email&login=email>.

¹⁵³ Id.

during the pandemic because they lack easy access to loans”.¹⁵⁴ Black-owned small businesses, in particular, had difficulty getting approved for Paycheck Protection Program (PPP) relief funds due largely to the lack of preexisting relationships with larger banks that were early to administer those loans.¹⁵⁵ Black-owned banks are integral to equitable recovery because those banks provide access to financial relief and other resources for those businesses.

The PPP relied on utilizing mainstream financial institutions to deliver loans to small businesses. This approach favored existing more white customers while disadvantaging underbanked and unbanked MWBEs. According to the Small Business Credit Survey, “Large banks approve about 60% of loans sought by white small business owners, 50% of loans sought by Latino or Hispanic small business owners, and 29% of loans sought by Black small business owners.”

A major hurdle for minority business owners is that many banks allowed by the SBA to participate in the low-interest, forgivable loan program are only issuing loans to existing clients in order to speed up the approval process. It is widely documented that businesses owned by persons of color and women are less likely to have commercial banking relationships. That is in part, why in 2018, the DC Council commissioned the Department of Insurance Securities and Banking (DISB) to conduct a study to determine the feasibility of establishing a public bank in the District.

The establishment of a public bank was being explored to enable the city to serve as a participation lender, partnering instead of competing against local banks in order to drive lending to small businesses and others that have been historically denied access to credit. However, the Executive, still has not released the study or made its findings available to the Council or to the public. Perhaps, this report could have assisted city leaders with linking minority- and women-owned firms to lenders and thus helping increase banking capacity. This inaction by the government has, once again, potentially put Black businesses at a disadvantage.

Providing DMPED with grant-making authority to issue funds to District Chartered Bank will support the bank at a time when black-owned banks begins the process of addressing underlying structural inequities.¹⁵⁶ By supporting a District Chartered Bank, the District will help facilitate equitable recovery for the communities served by a District Chartered Bank.

c. Section-by-Section Analysis

Sec. XXXX. States the short title.

¹⁵⁴ Leatherby, *supra* note 3.

¹⁵⁵ Masunaga & Avery, *supra* note 1.

¹⁵⁶ See, Jeanne Lee, *Why America Needs Black-owned Banks*, USA TODAY (Feb. 16, 2017), <https://www.usatoday.com/story/money/personalfinance/2017/02/16/why-america-needs-black-owned-banks/97892444/>.

Sec. XXXX. Amends DC Official Code § 1-328.04(d) to provide the Deputy Mayor for Planning and Economic Development (“DMPED”) grant-making authority to issue funds to a District of Columbia chartered bank.

d. Legislative Recommendations for the Committee of the Whole

Sec. XXXX. Short title.

This subtitle may be cited as the “Deputy Mayor for Planning and Economic Development Grant Making Authority Amendment Act of 2020”.

Sec. XXXX. Section 2032 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04), is amended by adding a new subsection (i) to read as follows:

“(i) Notwithstanding § 1-328.13, the Deputy Mayor for Planning and Economic Development shall make a grant to District of Columbia chartered bank, in a minimum amount of \$1,000,000.00, for the purpose of activities that support an equitable economic recovery for the District of Columbia and increase access to loans, grants, financial services, and banking products to District of Columbia residents, businesses, nonprofits, and community-based organizations.”

7. SUBTITLE XX. FINANCIAL INSTITUTION FRANCHISE TAX AND TAX HAVEN CLARIFICATION AMENDMENT ACT OF 2020

d. Purpose, Effect, and Impact on Existing Law

The purpose of this subtitle is to modernize the District’s tax laws as they apply to “financial institutions” and “tax havens” by adopting the uniform definitions recommended by the Multistate Tax Commission.

e. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it provides clarity on the definitions of “financial institutions” and “tax havens.” There is no fiscal impact for this new title.

f. **Section-by-Section Analysis**

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-1801.04 to adopt a new definition of “financial institutions” and “tax havens.”

Sec. 7023. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Financial Institution Franchise Tax and Tax Haven Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1801.04 is amended as follows:

(1) Subsection (20) is amended to read as follows:

“(20) “Financial institution” with respect to any tax imposed by this chapter means:

“(A) Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

“(B) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. §§21 et seq.;

“(C) A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(b)(1);

“(D) Any bank or thrift institution incorporated or organized under the laws of any state;

“(E) Any corporation organized under the provisions of 12 U.S.C. §§611 to 631.

“(F) Any agency or branch of a foreign depository as defined in 12 U.S.C. § 3101;

“(G) A state credit union the loan assets of which exceed \$50,000,000 as of the first day of its taxable year;

“(H) A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

“(I) Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in paragraphs (A) through (H) of this subsection other than an insurance company taxable under § 31-3931.12, risk purchasing groups taxable under § 31-4109, surplus lines brokers taxable under § 31-2502.40(a), or hospital service and medical services plans taxable under § 31-3514.01;

“(J) A corporation or other business entity that derives more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a "finance lease" shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any "direct financing lease" or "leverage lease" that meets the criteria of Financial

Accounting Standards Board Statement No. 13, "Accounting for Leases" or any other lease that is accounted for as a financing by a lessor under generally accepted accounting principles. For this classification to apply,

“(i) the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent (50%) requirement; and

(ii) gross income from incidental or occasional transactions shall be disregarded; or

“(K) Any other person or business entity, other than an insurance company taxable under §§ 31-3931.12 and 47-2608 , a risk purchasing groups taxable under § 31-4109, surplus lines brokers taxable under § 31-2502.40(a), or hospital service and medical services plans taxable under § 31-3514.01, which derives more than fifty percent (50%) of its gross income from activities that a person described in subsections (2) through (8) and (10) above is authorized to transact. For the purpose of this subsection, the computation of gross income shall not include income from non-recurring, extraordinary items.

“(L) The Chief Financial Officer is authorized to exclude any person from the application of paragraph (K) upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in paragraphs (B) through (H) and (J) of this subsection.

(2) Subsection (49) is amended as follows:

(A) Paragraph (A) is amended is amended to read as follows:

“(A) “Tax haven” means a jurisdiction that, during the tax year in question has no or nominal effective tax on the relevant income and:

“(i) Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

“(ii) Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer’s correct tax liability, such as accounting records and underlying documentation, is not adequately available;

“(iii) Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

“(iv) Explicitly or implicitly excludes the jurisdiction’s resident taxpayers from taking advantage of the tax regime’s benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction’s domestic market; or

“(v) Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial/other services sector relative to its overall economy.

Sec. 70X3. Applicability.

This subtitle shall apply as of January 1, 2021.

8. SUBTITLE XX. TAX DEDUCTION CLARIFICATION AMENDMENT ACT OF 2020

d. Purpose, Effect, and Impact on Existing Law

This subtitle clarifies several franchise and income tax deductions to conform to the tax law changes enacted by the Tax Cuts and Jobs Act of 2017, provide technical corrections, and address deductions over-used by out-of-state residents that own District businesses. For instance, § 47-1803.03(a)(8) corrects a previous amendment that incorrectly applied the limit of “15% of the adjusted gross income” which does not apply to corporations or unincorporated businesses; paragraph (11)(B) addresses provisions in the tax code whereby corporations and unincorporated business owned by non-District residents can no longer automatically claim a deduction of 30% of the net income of the business; paragraph (14)(A) clarifies the District’s application of §172 of the Internal Revenue Code as amended by the Tax Cuts and Jobs Act; and paragraph (16) provides a technical correction for a cross citation to the code.

e. Committee Reasoning

The Committee accepts the Mayor’s proposed subtitle because it is consistent with the Office of Tax Revenue’s (OTR) interpretation and implementation of tax statutes and it will provide necessary clarity for taxpayers.

f. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-1801.04 to adopt a new definition of “financial institutions” and “tax havens.”

Sec. 7023. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the “Tax Deduction Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1803.03 is amended to read as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (8) is amended by striking the phrase “; provided, however, that such deductions shall be allowed only in an amount which in the aggregate of all such deductions does not exceed 15% of the adjusted gross income”.

(B) Paragraph (11)(B) is amended by striking the phrase “shall not exceed 30% of the net income of the business,” and inserting the phrase “shall not exceed 15% of the net income of the business, not including any capital gain,”.

(C) Paragraph (14)(A) is amended by striking the phrase “apportioned District of Columbia net operating loss carryover” and inserting “80% of apportioned District of Columbia net operating loss carryover”.

(D) Paragraph (16) is amended by striking the term “§ 47-1801.4(33)” and inserting the term “§ 47-1801.04(46)”.

(2) The lead in language to Subsection (b) is amended by striking the phrase “ the same (and to the same extent)” and inserting the phrase “the same and to the same extent (except as limited by § 164(b)(6)(B) of the Internal Revenue Code of 1986)”.

(b) Section 47-1803.02 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Subparagraph (C) is amended by striking the phrase “any trust distribution” and inserting the phrase “any trust distribution (including any loss)” in its place.

(ii) Subparagraph (P) is amended by striking the phrase “share in the income” and inserting the phrase “share in the income (or loss)” in its place.

Sec. 70X3. Applicability.

This subtitle shall apply as of January 1, 2021 except for Section 70X2(a)(2) which shall apply as of January 1, 2018.

9. SUBTITLE XX. WAGE WITHHOLDING CLARIFICATION AMENDMENT ACT OF 2020

d. Purpose, Effect, and Impact on Existing Law

This subtitle will enable the District to create withholding tables and forms that align with the federal tables and forms. Under District law, employers making payments to any employee shall deduct and withhold a portion of those payments in accordance with the annual tables published by OTR. Under the current law, OTR is not permitted to use the federal standard deduction when creating these tables. (See D.C. Code § 47-1812.08(b)(1A)). Due this restriction, in the past, OTR has used the federal personal exemption to create the annual tables. The Tax Cuts and Jobs Act (P.L. 115-97) however, eliminated the personal exemption. As a result, the federal government uses the standard deduction to create the federal withholding tables. Since OTR cannot use the standard deduction to create the withholding tables, this has caused a large administrative burden for OTR. Without accurate tables, employers have had difficulty determining the correct amount of wages to withhold for District employees.

e. Committee Reasoning

The Committee accepts the Mayor's proposed subtitle because it ensures that District residents at the end of the year have the accurate amount of taxes withheld. This means that there would be less room for OTR to commit error where District residents are subjected to paying larger than expected tax bill as well as penalties and interest at the end of the year.

f. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code Chapter 18 Title 47 to enable the District to create withholding tables and forms that align with the federal tables and forms

Sec. XXXX. Effective date.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the “Wage Withholding Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1812.08 is amended as follows:

(1) By striking the phrase “the Council of the District of Columbia” and inserting the phrase “the Chief Financial Officer” in its place wherever it appears.

(2) By striking the phrase “the Mayor” and inserting the phrase “the Chief Financial Officer” in its place wherever it appears.

(3) Subsection (a) is amended by striking the phrase “5%” and inserting the phrase “the highest rate of tax set forth in § 47-1806.03,” in its place.

(4) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by repealing subparagraph (E).

(B) Paragraph (1A) is amended by striking the phrase “Notwithstanding which method of determination for withholding set forth in paragraph (1) of this subsection is used, no allowance for the standard deduction shall be permitted” and inserting the phrase “For the purposes of this subsection, the terms “allowance” and “exemption” shall have the same meaning” in its place.

(5) Subsection (c) is amended by adding a paragraph (8A) to read as follows:

“(8A) For periods beginning after December 31, 2017, an employee shall be entitled to additional withholding exemptions under this subsection with respect to

payment of wages equal to a number determined by dividing an amount promulgated by the Chief Financial Officer by the employee’s estimated itemized deductions.”

(6) Subsection (k) is amended by striking the phrase “of one- and one-half percent per month” and insert the phrase “set forth in § 47-4201” in its place.

Sec. 70X4. Applicability.

This subtitle shall apply as of January 1, 2021.

9. SUBTITLE X: SHARED RESPONSIBILITY CLARIFICATION AMENDMENT ACT OF 2020

e. Purpose, Effect, and Impact on Existing Law

This subtitle resolves a conflict in the Individual Health Insurance Requirement Amendment Act of 2018 to clarify that a taxpayer is not subject to criminal prosecution under Chapter 41 of Title 47 or liens and levies under Chapter 44 of title 47 for failure to pay the District shared responsibility. The District enacted the Individual Health Insurance Requirement Amendment Act of 2018 as part of the Fiscal Year 2019 Budget Support Amendment Act of 2018. The Act in part, imposed a requirement on District residents to maintain minimum essential health coverage or have an exemption. If a District resident (including dependents) does not have minimum essential health coverage or an exemption, the resident will owe a shared responsibility payment. D.C. Official Code § 47-5103(a) provides, in relevant part that the “District shared responsibility payment shall be the same as the Federal shared responsibility payment under section 5000A of the Internal Revenue Code[.]” Section 5000A(g)(2) of the Internal Revenue Code provides, in relevant part, that a taxpayer shall not be subject to criminal penalties or to liens or levies for failure to pay the penalty. However, D.C. Official Code § 47-5108 provides, in relevant part, that a taxpayer who fails to pay the District shared responsibility payment imposed under § 47-5103 shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees, as provided in Chapter 41 (Criminal Provisions) and Chapter 44 (Collections) of Title 47.

This subtitle is being proposed to resolve the conflict between Section 5000A(g)(2) of the Internal Revenue Code and D.C. Official Code § 47-5108. It amends D.C. Official Code § 47-5108 by striking the reference to Chapter 41 and by amending the reference to Chapter 44 to include only the collection provisions that are consistent with Section 5000A(g)(2) of the Internal Revenue Code (i.e., the general collection provisions under Subchapter I and the refund offset provisions under Subchapter III).

The shared responsibility payment was imposed for tax years beginning on or after January 1, 2019. Accordingly, the applicability date is retroactive to January 1, 2019.

f. **Committee Reasoning**

The Committee accepts the Mayor’s proposed subtitle because it reassures District residents that they will not be subject to criminal prosecution or liens and levies if they fail to pay a shared responsibility payment.

g. **Section-by-Section Analysis**

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code § 47-5108 to resolve the conflict in the Individual Health Insurance Requirement Amendment Act of 2018 to clarify that a taxpayer is not subject to criminal prosecution under Chapter 41 of Title 47 or liens and levies under Chapter 44 of title 47 for failure to pay the District shared responsibility.

Sec. XXXX. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Shared Responsibility Clarification Amendment Act of 2020”.

Sec. 70X2. Chapter 51 of Title 47 is amended as follows:

(a) Section 47-5108 is amended to read as follows:

(1) By striking the phrase “Chapter 41”.

(2) By striking the phrase “Chapter 44” and inserting the phrase

“Subchapters I and III of Chapter 44”.

Sec. 70X4. Applicability.

This subtitle shall apply as of January 1, 2019.

**10. SUBTITLE X: TAX ADMINISTRATION CLARIFICATION
AMENDMENT ACT OF 2020**

d. Purpose, Effect, and Impact on Existing Law

This subtitle would allow OTR to: (1) administer tax provisions and correspond with taxpayers consistent with the Internet economy; (2) clarify the statute of limitations on refunds and lien priorities; (3) clarify that DCRA can change a vacant determination to avoid a hardship to the taxpayer; (4) clarify appeal procedures for omitted property assessments; (5) clarify that retained life estates are not subject to recordation and transfer taxes; (6) clarify that possessory interest taxes are billed semiannually just as real property taxes are billed; (7) provide for certification of workforce housing compliance by DHCD; (8) reinstate a tax sale if a redemption payment is declined by the drawer's bank; (9) codify a conflict of interest provision barring certain DC employees from participating in the tax sale; (9) permit OTR to effectively defend property tax audits at the Real Property Tax Appeals Commission; and (10) to clarify that administrative remedies must be exhausted before appealing to Superior Court.

e. Committee Reasoning

The Committee accepts the Mayor's proposed subtitle because it institutes best practices for OTR in the Internet economy, by allowing taxpayers to opt into electronic notices and billing. This will streamline and save resources for the agency. Furthermore, before appeals are commenced at Superior Court, best practices would dictate that administrative appeals must first be exhausted hence, this will clarify such prerequisite.

f. Section-by-Section Analysis

Sec. XXXX. States the short title.

Sec. XXXX. Amends Chapter 8 of Title 47 to provide the requisite legal authority for OTR to safeguard District revenues from legal challenges, that relate in part to lien priorities and limitations on refunds. The section will also clarify provisions and implement procedures consistent with best practices and Federal procedures, including the exhaustion of administrative remedies before appealing to Superior Court.

d. Legislative Recommendation for the Committee of the Whole

Sec. 70X1. Short title.

This subtitle may be cited as the "Tax Administration Clarification Amendment Act of 2020".

Sec. 70X2. Chapter 8 of Title 47 is amended as follows:

(d) In section 47-804, strike the phrase “first class mail.” and insert the phrase “first class mail; provided that the owner and the Chief Financial Officer may elect to receive notice electronically or by such other means as agreed upon, and such notice shall be deemed to be properly served on the date of dispatch; provided further that either the owner or the Chief Financial Officer may rescind such election in the manner prescribed by the Chief Financial Officer.”.

(e) Section 47-811 is amended by adding a new subsection (e) to read as follows:

“(e) (1) A real property tax, including penalty and interest thereon, shall automatically become a lien on the real property on the date the real property tax was due and unpaid.

“(2) The lien for a real property tax shall be a prior and preferred claim overall other liens and shall be perpetual.

“(3) Payment for real property tax collected under this chapter shall be applied to each outstanding lien in order of its priority measured by the date that it became a lien under paragraph (1) of this subsection. The payment shall be applied to the lien in the following order: penalties; interest; and the original amount of real property tax.”.

(f) Section 47-811.02 is amended as follows:

(4) In subsection (a) at the end of the existing sentence add the following

sentence: “Notwithstanding the foregoing, no credit shall be allowed unless it could be refunded under subsection (b) of this section.”

(5) Subsection (b) is amended as follows:

(B) Strike the phrase “§ 47-825.01a(f)” and insert the phrase “§

47-

825.01a(f)(2)(A) or the Department of Consumer and Regulatory Affairs has corrected a classification under § 47-825.01a(f)(2)(B)” in its place.

(B) A new paragraph (6) is added to read as follows:

“(6) The Department of Consumer and Regulatory Affairs granted an exemption under section 6(b)(5) of an act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.06(b)(5)) for the applicable period for which the tax was paid.”.

(6) In subsection (f) add a new sentence at the end thereof to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

(c) Section 47-825.01a is amended as follows:

(1) Paragraph (c)(7) is amended as follows:

(A) Strike the word “22” and inserting the word “42” in its place;

(B) Insert at the end thereof a new sentence to read as follows:

“District tax returns and District tax information relevant to establishing a property’s

entitlement to the homestead deduction provided under §§ 47-849 through 47-850.03, the senior and disabled relief provided under § 47-863, and the owner-occupant residential tax credit provided under § 47-864 may be disclosed to the Commission, and shall be treated as tax returns and personal information for purposes of paragraph (6) of this subsection, and such tax returns and personal information provided which is not that of the property owner shall not be disclosed to the property owner.”.

(2) Subsection (f)(2) is amended as follows:

(A) The existing paragraph is renumbered as subparagraph

(A).

(B) A new subparagraph (B) is added to read as follows:

“(B) DCRA may change a real property classification from

vacant

or blight which is the result of a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or preceding 3 tax years.”.

(d) Section 47-831(a) is amended by striking the last sentence thereof and inserting the following sentence in its place:

“An owner aggrieved by a reassessment made under this section may, within 45 days of the date of the notice, petition for an administrative review of the reassessment and may appeal from a final determination thereon, to the same extent as if the appeal were filed under § 47-825.01a(d)(2).”

(e) In Section 47-863(a)(1A)(A)(iii)(I) strike the phrase “, in whole or in part,”

(f) In Section 47-864(e), strike the phrase “section shall” and insert the phrase “section, § 47-850 or § 47-850.01 shall” in its place.

Sec. 70X3. Chapter 9 of Title 47 is amended as follows:

(a) The table of contents is amended by adding a new section § 47-923:
“Stamps and other devices as evidence of collection and payment of taxes.”

(b) In section 47-901(3) strike the phrase “(including an estate for life)” and insert the phrase “(excepting an estate for life from the grantor to the grantor)” in its place.

(c) Section 47-914 is amended as follows:

(1) By striking the phrase “under the provisions of § 47-908 may” and inserting the phrase “under the provisions of § 47-4312 or the denial of a claim for refund may, within 6 months from the date of final determination or from the date of the denial of a claim for refund,” in its place;

(2) By inserting at the end thereof a new sentence to read as follows:
“Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(d) A new Section § 47-923 is added to read as follows:

“The Chief Financial Officer shall affix or imprint on each instrument accepted for recordation the amount of tax and the amount of fees collected at the time of recordation.”.

Sec. 70X4. Chapter 10 of Title 47 is amended as follows:

(a) The table of contents of chapter 10 of Title 47 is amended by striking the word “assessments” in the section title for § 47-1009 and inserting the phrase “denials of exemption” in its place.

(b) Section 47-1002 is amended as follows:

(1) Subparagraph (20)(A)(ii) is amended by inserting the word “programs” after the phrase “or moderate rehabilitation” in the second place that it appears in such subparagraph;

(2) Subparagraph (20)(A)(vi) is amended by

(A) striking the phrase “March 1st” and inserting the phrase “April 15th” in its place; and

(B) striking the phrase “District of Columbia Department of Finance and Revenue” and inserting the phrase “Chief Financial Officer” in its place.

(3) Subsection (31) is amended as follows:

(A) by striking the phrase “paragraphs (6)” each place it appears and inserting the phrase “paragraphs (5)” in its place; and

(B) by striking the word “providing” in paragraph (31)(C) and inserting the word “leasing” in its place.

(c) In section 47-1005.01, strike the phrase “user. Payments” and insert the phrase “user. Taxes under this section shall be billed semiannually in the same manner as real property taxes. Payments” in its place.

(d) Section 47-1005.03(f)(1) is amended as by striking the phrase “Department of Housing and Community Development and” and inserting the phrase “Department of Housing and Community Development (DHCD), and DHCD shall certify” in its place.

(e) Section 47-1009 is amended as follows:

(1) The section heading is amended by striking the word “assessments” in the section heading for section 47-1009 and inserting the phrase “denials of exemption” in its place.

(2) Paragraph (a)(1) is amended as follows:

(A) by inserting the phrase “or otherwise sends” after the word “mails”;

(B) by inserting the phrase “or revocation” after the phrase “written denial”;

(C) by striking the phrase “assessment, classification, equalization, or valuation” and inserting the phrase “denial or revocation of exemption” in its place; and

(D) by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(3) Paragraph (a)(2) is amended as follows:

(A) by striking the phrase “§ 47-825” and inserting the phrase “chapter 8 of this title” in its place;

(B) by striking the phrase “July 1st” and inserting the phrase “the beginning of the real property tax year” in its place.

Sec. 7005. Chapter 13A of Title 47 is amended as follows:

In section 47-1342(b)(1)(A), strike the phrase “premises address” and insert the phrase “premise address (if assigned by the Mayor)” in its place.

(d) § 47-1342.01 is amended by adding at the end of the existing sentence the following

sentence: “The Chief Financial Officer shall sell the real property at the tax sale if the Chief Financial Officer discovers before the tax sale that the payment was refused by the drawee or the funds were not collected by the District. Any redemption of a sale of a real property shall be rescinded *nunc pro tunc* if payment was refused by the drawee or the funds were not collected by the District, and the purchaser shall continue with enforcement. This section shall apply notwithstanding any other provision under this chapter to the contrary, including any provision providing for notice before the sale or for cancellation of the sale; provided that the notice under § 47-1353.01 that was not given previously shall be mailed within 30 days of discovery of the payment that was refused by the drawee or the funds that were not collected by the District as required.”.

(e) § 47-1346(a)(5) is amended by adding a new subparagraph (F) to read as follows:

“(F)(i) District of Columbia government employees and contractors, or the family

members or business associates of District government employees and contractors, under the following classifications or employed in the following offices or positions, shall not be permitted to register for or bid on properties at any tax sale:

“(I) Executive Service employees as described in § 1.610.51;

“(II) Office of the City Administrator;

“(III) Office of the Deputy Mayor for Planning and Economic

Development, and the following subordinate organizations thereunder: Department of Consumer and Regulatory Affairs, Department of Housing and Community Development, and the Office of Planning;

“(IV) Office of the Chief Financial Officer; and

“(V) Mayor, Councilmember, Advisory Neighborhood Commissioner, or

a staff member thereof.

“(ii) For purposes of this paragraph, the phrase “family member”

means

parents, spouses or domestic partners, siblings and children.

“(iii) For purposes of this section, the term “business associate” means:

“(I) An organization in which the employee, elected official, or contractor

serves as an officer, director, trustee, or employee; or

“(II) Any person or organization with whom the employee, elected official, or contractor is negotiating employment or has any arrangement concerning prospective employment.”.

(f) In § 47-1361(b-1) strike the phrase “on a real property tax bill or notice that was mailed to the real property's owner as indicated on the tax roll to the owner's mailing address on the tax roll” and insert the phrase “as a liability in OTR’s online real property tax billing database” in its place.

Sec. 70X5. Chapter 15 of Title 47 is amended as follows:

(a) Section 47-1512(e) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

(b) Section 47-1533 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X6. Chapter 18 of Title 47 is amended as follows:

(a) Section 47-1815.01 is amended by adding at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to any appeal filed under this section.”

Sec. 70X7. Chapter 20 of Title 47 is amended as follows:

(a) Section 47-2020(a) is amended by adding at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to any appeal filed under this subsection.”

Sec. 70X8. Chapter 23 of Title 47 is amended as follows:

(a) Section 47-2319 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X9. Chapter 24 of Title 47 is amended as follows:

(a) Section 47-2412 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an application for refund under this section.”; and

(b) Section 47-2413 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70XX. Chapter 25 of Title 47 is amended as follows:

(a) Section 47-2514 is amended by striking the phrase “Chapter 13 of this title” and inserting the phrase “Chapter 13A of this title” in its place.

Sec. 70X0. Chapter 33 of Title 47 is amended as follows:

(a) Section 47-3303 is amended:

(1) by striking the word “mailing” and inserting the phrase “mailing or otherwise sending” in its place;

(2) by adding at the end thereof a new sentence to read as follows:

“Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”

(b) Section 47-3310 is amended as follows:

(1) Subsection (a) is amended:

(A) by striking the phrase “2 years” wherever it appears and inserting the phrase “3 years” in its place;

(B) by striking the phrase “After receiving notice of disallowance,” and inserting the phrase “Within 6 months of the date that the Chief Financial Officer mails written notice of disallowance” in its place.

(C) by striking the phrase “or after the expiration” and inserting the phrase “or within 6 months after the expiration”;

(D) by adding after the phrase “as provided in §§ 47-3303 and 47-3304 of this title” the sentence “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”

Sec. 70X1. Chapter 37 of Title 47 is amended as follows:

(a) Section 47-3717(c) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

Sec. 70X2. Chapter 39 of Title 47 is amended as follows:

(a) Section 47-3908(c) is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this subsection.”.

Sec. 70XX. Chapter 43 of Title 47 is amended as follows:

(a) Section 47-4312 is amended by adding a new subsection (g) the end thereof to read as follows:

“(g) For purposes of this section, the word “deficiency” means the amount or amounts by which the tax imposed as determined by the Chief Financial Officer exceeds the amount shown as the tax upon the return of the person or persons liable for the payment thereof, or the amount of tax determined by the Chief Financial Officer if no return is filed by the taxpayer.”.

Sec. 70X3. Chapter 44 of Title 47 is amended as follows:

(a) Section 47-4437 is amended by inserting at the end thereof a new sentence to read as follows: “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

Sec. 70X4. Title III of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1101 *et seq*), is amended as follows:

(a) The table of contents is amended by adding a new section 325 (D.C. Official Code § 42-1125): “Stamps and other devices as evidence of collection and payment of taxes.”

(b) Section 301(3)(A) (D.C. Official Code § 42-1101(3)(A) is amended as follows:

(1) In sub-subparagraph (i) strike the term “Title” and insert the phrase “Title (including an estate for life to a person other than the grantor)” in its place.

(2) In sub-subparagraph (ii) strike the phrase “(including an estate for life)”.

(c) Section 303 (D.C. Official Code § 42-1103) is amended as follows:

(1) In subsection (a-5)(2), strike the phrase “shall be” wherever it appears and insert the phrase “shall also be” in its place.

(2) In subsection (b-1)(2)(B), before the semicolon add the phrase “, if not filed simultaneously”.

(d) Section 314 (D.C. Official Code § 42-1114) is amended as follows:

(1) By striking the phrase “under the provisions of § 42-1108 may” and inserting the phrase “ under the provisions of § 47-4312 or the denial of a claim for refund may, within 6 months from the date of final determination or from the date of the denial of a claim for refund,” in its place;

(2) By inserting at the end thereof the sentence “Exhaustion of administrative remedies shall be a prerequisite to filing an appeal under this section.”.

(e) A new Section 325 (D.C. Official Code § 42-1125) is added to read as follows:

“The Chief Financial Officer shall affix or imprint on each instrument accepted for recordation the amount of tax and the amount of fees collected at the time of recordation.”.

Sec. 70X5.

In sec. 7024 of the Fiscal Year 2020 Budget Support Act of 2019 (DC Law 23-16, effective September 11, 2019), strike the term “subtitle” and insert the phrase “subtitle, excepting sections 7022(b) and (e) and 7023(c)” in its place.

Sec. 70X6.

In section 555(3) of An Act To establish a code of law for the District of Columbia, approved March 8, 1901 (31 Stat. 1189; D.C. Official Code § 42-407(3)), strike the phrase “§ 47-4221” and insert the phrase “§ 47-4221 or section 1046 of the Fiscal Year 2013 Budget Support Act of 2012 (D.C. Law 19-168, effective September 30, 2012; D.C. Official Code § 1-350.05)” in its place.

11. SUBTITLE X: ELECTRONIC FILING MANDATE FOR TAX PREPARERS ACT OF 2020

c. Purpose, Effect, and Impact on Existing Law

This subtitle creates a requirement that mandates electronic filing of tax return by tax preparers who file more than 25 tax returns in 2021 or more than 10 tax returns in 2022 or later. The subtitle would ensure that tax return preparers who file returns in amounts that exceed the relevant thresholds file returns electronically. Under current law, there is no requirement that tax return preparers file returns electronically. Paper filing of tax returns by return preparers creates operational costs and burdens to the Office of Tax and Revenue.

Further, paper filing by tax return preparers creates greater opportunity for fraud or other mistakes.

d. **Committee Reasoning**

The Committee accepts the Mayor’s proposed subtitle because by requiring electronic filing of returns by certain tax return preparers, the District will reduce return processing time and expense and have increased ability to audit and monitor tax return preparers to ensure they are correctly and accurately filing tax returns on behalf of District residents. Allowing the OCFO to suspend electronic filing identification numbers of tax preparers who knowingly file tax returns that understate taxable income will aid in reducing fraudulent returns.

h. **Section-by-Section Analysis**

Sec. XXXX. States the short title.

Sec. XXXX. Amends D.C. Official Code Chapter 18 of Title 47 to ensure that tax return preparers who file returns in amounts that exceed the relevant thresholds file returns electronically.

Sec. XXXX. Effective date.

d. **Legislative Recommendation for the Committee of the Whole**

Sec. 70X1. Short title.

This subtitle may be cited as the “Electronic Filing Mandate for Tax Preparers Act of 2020”.

Sec. 70X2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) A new section 47-1805.06 is added to read as follows:

“§47-1805.06 Electronic Filing Mandate.

(b) “For the purpose of this section, the term:

(5) “Tax return preparer” shall have the same meaning as § 47-4217(a)(1) except that it shall not include a person who only prepares returns or claims for refund for persons served by non-profit organizations that provide free tax preparation to low-

moderate-income individuals, persons with disabilities, the elderly, and limited English speakers.

(6) If a tax return preparer prepares more than 25 returns or claims for refunds in calendar year 2021 for any tax imposed under this chapter for a person required to file a tax return pursuant to § 47-1805.02, all such tax returns prepared by that tax return preparer shall be filed using electronic means in a manner prescribed by the Chief Financial Officer.

(7) If a tax return preparer prepares more than 10 tax returns or claims for refund in calendar year 2022 or any calendar year thereafter for any tax imposed under this chapter for a person required to file a tax return pursuant to § 47-1805.02, all such tax returns prepared by that tax return preparer shall be filed using electronic means in a manner prescribed by the Chief Financial Officer.

(8) Upon request, the Chief Financial Officer may waive the electronic filing requirement imposed by this section upon finding that such requirement would cause an undue hardship. The tax return preparer must request in writing the waiver from the Chief Financial Officer and clearly demonstrate the nature of the undue hardship. Within 45 days after receiving the request for waiver, the Chief Financial Officer shall issue a waiver or denial of the request.”.

Sec. 70X3. Chapter 42 of Title 47 of the District of Columbia Official Code is amended as follows:

(b) Section 47-4217 is amended to read as follows:

(1) Subsection (e)(1) is amended by striking the phrase “\$1,000,” and inserting the phrase “\$1,000, and suspension of their electronic filing identification number for purposes of District tax returns”.

(2) Subsection (h) is added as follows: “A tax return preparer shall pay a penalty of \$250 for each return or claim for refund prepared by the tax preparer, but not to exceed an aggregate amount of \$2,500, which was required to be filed using electronic means pursuant to § 47-1805.06 and was not filed as such.”.

Sec. 70X4. Applicability date.

This act shall apply as of January 1, 2021.

V. COMMITTEE ACTION AND VOTE

VI. ATTACHMENTS

- A. **Committee Adjustments**
- B. **Bill 23-xxx, Fiscal Year 2021 Budget Support Act of 2020 Recommended Subtitles**
- C. [Click here to enter a date. Fiscal Year 2021 Budget Oversight Hearing Witness List and Testimony.](#)
- D. [Click here to enter a date. Fiscal Year 2021 Budget Oversight Hearing Witness List and Testimony.](#)