

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



**Fitzroy Lee**  
Acting Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Fitzroy Lee  
Acting Chief Financial Officer

**DATE:** March 16, 2022

**SUBJECT:** Fiscal Impact Statement – “Fiscal Year 2023 Budget Support Act of 2022”

**REFERENCE:** Draft Bill as provided to Office of Revenue Analysis, March 16, 2022

**Conclusion**

Funds are sufficient in the proposed fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the Fiscal Year 2023 Budget Support Act of 2022.

The District’s proposed fiscal year 2023 budget includes \$10.7 billion in Local fund spending supported by \$10.7 billion of local resources, with an operating margin of \$0.5 million. The estimated expenditures for the proposed General Fund budget, which includes dedicated taxes and special purpose fund revenue in addition to Local funds, are \$12.0 billion.

The proposed budget and financial plan accounts for the expenditure and revenue implications of the bill.

*The bill, the “Fiscal Year 2023 Budget Support Act of 2022,” is the legislative vehicle for adopting statutory changes needed to implement the District’s proposed budget and financial plan for the fiscal years 2023 through 2026. The following pages summarize the purpose and the impact of each subtitle.*

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TITLE I – GOVERNMENT DIRECTION AND SUPPORT

**Subtitle (I)(A) – Information Technology Innovation and Infrastructure Amendment Act of 2022**

**Background**

The subtitle changes the name of the DC-Net Services Fund<sup>1</sup> to the DC-NET Services and Innovation Fund and authorizes the fund to be used for District government information technology innovation and Smart DC initiatives<sup>2</sup>. Currently, the fund can only be used for network enhancement, maintenance, and expansion, as well as operational costs of the DC-NET program.

**Financial Plan Impact**

This subtitle does not have a financial impact. The Office of the Chief Technology Officer (OCTO) manages the resources for the DC-Net Services Fund and expanding the allowable expenditures to include Smart DC initiatives does not impose a budgetary cost on the agency.

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<sup>1</sup> D.C. Official Code § 1-1432.

<sup>2</sup> Smart DC initiatives means initiatives and actions to incorporate emerging information and communication technologies into the operations of District government agencies to enhance agency operations and the quality of life for District residents, businesses, and visitors through smart technology, including the internet of things, public Wi-Fi, connected devices, and sensors, innovation competitions, and data analytics.

## TITLE II – ECONOMIC DEVELOPMENT AND REGULATION

### **Subtitle (II)(A) – Heirs Property Legal Assistance Act of 2022**

#### **Background**

The subtitle authorizes the Mayor to issue grants to assist low-income individuals to pay for legal services necessary to obtain clear legal title to property the individual inherited either testate or intestate from a member of the individual’s family. The grants authorized may be issued directly to individuals seeking clear title, to a legal services organization providing the necessary legal services, or to a third-party grant-managing entity for the purpose of making subgrants to such individuals or organizations on behalf of the Mayor.

#### **Financial Plan Impact**

The proposed budget and financial plan includes recurring funding of \$1 million in the Department of Housing and Community Development to support the subtitle’s authorized legal assistance.

### **Subtitle (II)(B) – Tax Increment Financing Technical Amendment Act of 2022**

#### **Background**

The District’s Tax Increment Financing (TIF) program allows the District to issue bonds in support of an economic development project.<sup>3</sup> The bond proceeds are used by the private developer to support construction and infrastructure costs. To repay the bonds, the District determines and then pledges the growth in real property<sup>4</sup> and sales<sup>5</sup> taxes over a baseline amount within the defined TIF area to support the bond issuance. Currently, the baseline tax amounts are established in the authorizing legislation of each individual TIF area.

The subtitle codifies the Chief Financial Officer’s (CFO) process for establishing the baseline real property and sales tax amounts. For both real property and sales taxes, the subtitle establishes the baseline tax as the amount of tax that the CFO projects to receive from properties and businesses within the TIF area for each fiscal year of the financial plan period. The baseline tax is then set as the final fiscal year of the financial plan period for years outside of the financial plan period.

#### **Financial Plan Impact**

The subtitle conforms the establishment of baseline tax amounts in the TIF establishment laws to CFO practices around setting the baseline tax levels. The subtitle does not change CFO practices and the subtitle’s implementation imposes no budgetary costs on the District.

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<sup>3</sup> Tax Increment Financing Authorization Act of 1998, effective May 4, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01 et seq).

<sup>4</sup> D.C. Official Code § 47-801 et seq.

<sup>5</sup> D.C. Official Code § 47-2001 et seq.

### **Subtitle (II)(C) – Reunion Square Tax Increment Financing Amendment Act of 2022**

#### **Background**

In 2020, the Council approved the establishment of the Reunion Square Tax Increment Financing (TIF) area to support a mixed-use development of commercial office space, retail, housing, and a hotel.<sup>6</sup> The District can issue up to \$45.8 million in class A and class B debt, combined, to support the development project. The District’s authority to issue up to \$16.9 million in class A debt expires on September 30, 2025. The District’s authority to issue class B debt in any amount, such that the total class A and class B debt issuance does not exceed \$45.8 million, expires on September 30, 2030.

The subtitle clarifies that the Chief Financial Officer should not consider the principal amount of any debt issued to refund or refinance class A debt when adhering to the cap of \$16.9 million in class A debt. The subtitle also clarifies that the expiration dates for the class A and class B debt issuances are 11:59 p.m. on September 30, 2025 and September 30 2030, respectively. The subtitle ensures that the expiration dates have no impact on debt issued prior to those dates or on the District’s ability to issue refunding or refinancing of class A debt. The subtitle also allows for class A debt issued as draw down bonds to continue to be drawn upon even if the draws extend beyond the class A expiration date.

#### **Financial Plan Impact**

The subtitle’s changes to the Reunion Square TIF are technical in nature and the subtitle’s implementation imposes no budgetary costs on the District.

### **Subtitle (II)(D) – Downtown Destination Grants Amendment Act of 2022**

#### **Background**

The subtitle expands the Deputy Mayor for Planning and Economic Development’s (DMPED) grant-making authority<sup>7</sup> to help attract more residents and visitors to the District’s central business district and surrounding areas. DMPED should issue the grants to create new attractions or improve existing attractions and applicants should detail how they will spend the funding to enhance or create attractions during the application process. The subtitle allows DMPED to set-aside grants for specific purposes such as enhancing downtown’s Franklin Park or creating family-oriented destinations.

#### **Financial Plan Impact**

This fiscal year 2023 budget includes \$5 million in federal funds for DMPED to issue downtown destination grants. The grants will be issued on a competitive basis unless DMPED sets aside some or all of the available funding for specific purposes as authorized in the subtitle.

### **Subtitle (II)(E) – Tax Abatements for Housing in Downtown Act of 2022**

#### **Background**

The subtitle authorizes the Mayor to approve tax abatements for certain real property undergoing a change of use to provide at least ten housing units. The property owner must set aside at least 8

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<sup>6</sup> Reunion Square Tax Increment Financing Amendment Act of 2020, effective March 16, 2021 (D.C. Law 23-202; D.C. Official Code § 2-1217.40a et seq).

<sup>7</sup> 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).

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percent of the housing units, for at least 20 years, at rents affordable to households earning 60 percent or less of median family income. The real property must be located in the area defined by the subtitle, which is roughly bounded by Dupont Circle, Washington Circle, the intersection of 9<sup>th</sup> Street NW and Massachusetts Avenue, and the intersection of I Street NW and Pennsylvania Avenue NW, or any other portion of the central business district designated by the Mayor. Additionally, the owners of the property must contract with certified business enterprises for at least 35 percent of the contract dollar volume of construction and operation and enter into a First Source Agreement for construction and operation of the project.

For each property approved by the Mayor as meeting the requirements, the real property tax shall be abated in an annual amount of \$2.50 per residential square foot of real property and for a maximum of 20 years. The total value of abatements the Mayor may approve across all projects is limited to a maximum of \$2.5 million in fiscal year 2024. The cap is escalated by 3 percent annually thereafter and authorized abatements are subject to an overall limit of \$70 million in the aggregate.

### Financial Plan Impact

The Deputy Mayor for Planning and Economic Development (DMPED) will hire one employee to review tax abatement applications, at a cost of \$180,000 (including fringe). The subtitle also reduces real property tax revenue by a total of \$7.727 million over the financial plan.

<b>Subtitle (II)(F), Tax Abatements for Housing in Downtown Act of 2022</b>					
<b>Fiscal Year 2023 – Fiscal Year 2026</b>					
<b>(\$ in thousands)</b>					
	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Four-Year Total</b>
Real Property Tax Revenue Reduction	\$0	(\$2,500)	(\$2,575)	(\$2,652)	(\$7,727)
DMPED Administrative Costs	(\$180)	\$0	\$0	\$0	(\$180)

### Subtitle (II)(F) – Vitality Fund Amendment Act of 2022

#### Background

The Deputy Mayor for Planning and Economic Development’s (DMPED) has grant-making authority to attract large businesses to the District that have the potential to attract additional businesses.<sup>8</sup> These businesses must meet certain employment, office space size, sector, and local business contracting requirements to be eligible for grants.

The subtitle amends the requirements for eligible applicants of grants under this authority, including the opportunity for existing District-based businesses to apply for the grants. The subtitle reduces the office space size from 20,000 square feet to 7,000 square feet and the lease or ownership term from ten years to five years. Currently, eligible businesses for these grants must enter into a workforce development program with the District and commit to spending at least 5 percent of their

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<sup>8</sup>Deputy Mayor for Planning and Economic Development Grants and Initiatives Amendment Act of 2021, effective November 13, 2021 (D.C. Law 24-45; D.C. Official Code § 1-328.304(n)).

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contracting spend with local business enterprises. The subtitle no longer requires an eligible recipient to meet both requirements, but it does require that they meet at least one of their choosing.

### **Financial Plan Impact**

This fiscal year 2023 budget includes \$7.5 million in federal funding for DMPED to issue grants to retain or attract new business to the District. The subtitle’s changes to the grant eligibility criteria will make more business eligible for grants, but they do not change the amount of grant funding available.

## **Subtitle (II)(G) – Home Purchase Assistance Program Amendment Act of 2022**

### **Background**

The Home Purchase Assistance Program<sup>9</sup> (HPAP) provides interest-free loans and closing cost assistance to qualified applicants to purchase single family houses, condominiums, or cooperative units in the District. The subtitle increases the amount of assistance available to low and moderate income first-time homebuyers from \$80,000 to \$202,000.

### **Financial Plan Impact**

The subtitle will allow each qualified home-buyer to receive additional assistance, but there is no additional funding set aside in the budget and financial plan for the subtitle. HPAP funds are only provided to applicants to the extent funding is available in the Home Purchase Assistance Fund.

## **Subtitle (II)(H) – Square 5539 Tax Abatement Act of 2022**

### **Background**

The subtitle provides a real property tax abatement for a residential development at 3200 Penn Ave, S.E.<sup>10</sup> for up to 40 years provided certain conditions are met. The abatement is capped at \$362,000 in its first year (which cannot be any earlier than fiscal year 2026) and grows by three percent each subsequent year. The abatement is contingent upon an approved certificate of occupancy for 170,000 square feet of multi-family residential housing and accessory parking, with approximately 180 to 200 rental housing units. All of the units must be set aside for households earning 80 percent or less median family income (MFI)<sup>11</sup>, and at least ten percent of the units must be affordable to households earning 60 percent or less than MFI. Additionally, the project must contract with at least 35 percent certified business enterprises.

### **Financial Plan Impact**

The abatement will reduce real property tax revenue by \$362,000 in fiscal year 2026, the earliest the abatement can begin. The revenue loss grows by three percent each subsequent year, for up to 40 years, provided conditions for the abatement continue to be met.

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<sup>9</sup> D.C. Official Code § 42-2601et seq.

<sup>10</sup> For tax and assessment purposes the property is located in Square 5539, lots 835 and 840.

<sup>11</sup> “Median family income” as set forth in section 101(5) of the Inclusionary Zoning Implementation Amendment Act of 2006, effective September 23, 2017 (D.C. Law 16-275; D.C. Official Code § 6-1041.01(5))



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<b>Subtitle (II)(H), Square 5539 Tax Abatement Act of 2022</b>					
<b>Real Property Tax Reduction</b>					
<b>Fiscal Year 2023 - Fiscal Year 2026</b>					
<b>(\$ in thousands)</b>					
	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Four-Year Total</b>
Real Property Tax Revenue	\$0	\$0	\$0	(\$362)	(\$362)

### TITLE III – PUBLIC SAFETY AND JUSTICE

#### **Subtitle (III)(A) – Automated External Defibrillator Incentive Program Act of 2022**

##### **Background**

The subtitle establishes<sup>12</sup> an automated external defibrillator (AED) incentive program within the Fire and Emergency Medical Services Department (FEMS). Rebates will be provided to individuals and entities in the District that purchase and install AEDs in publicly-accessible area in an interior of a building within 150 feet of the building’s entrance. To be eligible for a rebate, a property owner or lessee must register the AED with FEMS and submit a rebate claim. Rebates are contingent on the availability of funding.

##### **Financial Plan Impact**

The FEMS fiscal year 2023 budget includes \$250,000 of recurring funding to provide rebates to individuals and entities for the purchase and installation of AEDs in publicly accessible areas. The FEMS fiscal year 2023 budget also includes \$98,000 of recurring funding to hire one full time employee to manage the incentive program.

#### **Subtitle (III)(B) – Emergency Medical Services Transport Contracts Amendment Act of 2022**

##### **Background**

The subtitle repeals<sup>13</sup> reporting requirements and the sunset clause for the authority granted to FEMS to contract with third parties to provide supplemental pre-hospital medical care and transportation to persons requiring Basic Life Support.

##### **Financial Plan Impact**

This subtitle has no impact on the budget or financial plan.

#### **Subtitle (III)(C) – Office of Administrative Hearings Universal Paid Leave Hearings Funding Amendment Act of 2022**

##### **Background**

The Office of Administrative Hearings (OAH) receives funding from the Universal Paid Leave Administration Fund<sup>14</sup> to pay for expenses related to the hearing of appeals of Universal Paid Leave claim determinations. For Fiscal Year 2022 only, up to five employees of OAH utilizing this funding are authorized<sup>15</sup> to also work on other matters, provided Universal Paid Leave appeals are prioritized. The subtitle makes this authorization permanent.

##### **Financial Plan Impact**

There is no change to the proposed budget and financial plan from this subtitle.

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<sup>12</sup> By amending The Public Access to Automated External Defibrillator Act of 2000, effective April 27, 2001 (D.C. Law 13-278; D.C. Official Code § 7-2371.01 *et seq.*).

<sup>13</sup> Section 1(d)-(g) of An Act To classify the officers and members of the fire department of the District of Columbia, and for other purposes, approved June 20, 1906 (34 Stat. 314; D.C. Code Official § 5-401(d)-(g)).

<sup>14</sup> D.C. Official Code § 32-551.02.

<sup>15</sup> Pursuant to § 4063(b) of Fiscal Year 2022 Budget Support Emergency Act of 2021 (D.C. Act 24-159, Aug. 23, 2021, 68 DCR 008602).

**Subtitle (III)(D) – School Safety and Security Amendment Act of 2022**

**Background**

The subtitle eliminates<sup>16</sup> the statutorily required draw down of staff members in the Metropolitan Police Department's (MPD) School Safety Division (SSD). Under current law, MPD is required to gradually reduce the number of sworn and civilian staff members assigned to the SSD each year until the unit is dissolved by July 1, 2025.

**Financial Plan Impact**

This subtitle does not have financial impact. Eliminating draw down requirements maintains the current number of staff members assigned to the SSD, but the draw down requirements of current law assumed officers assigned to the SSD would be re-assigned elsewhere in MPD.

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<sup>16</sup> By repealing Section 102(e) of the School Safety and Security Contracting Procedures Act of 2004, effective April 13, 2005 (D.C. Law 15-350; D.C. Official Code § 5-132.02(e)).

TITLE IV – PUBLIC EDUCATION SYSTEMS

**Subtitle (IV)(A) – Funding for Public Schools and Public Charter Schools Increase Amendment Act of 2021**

**Background**

The subtitle sets<sup>17</sup> the base level funding for the Uniform Per Student Funding Formula (UPSFF) at \$12,419. This is a 5.9 percent increase over fiscal year 2022. Base level funding is multiplied by the weighting for each grade level or add-on services to determine the per student funding at that level or for those services.

The subtitle excludes<sup>18</sup> from the UPSFF in fiscal year 2023 funding allocated to the District of Columbia Public Schools (DCPS) for stabilization,<sup>19</sup> Early Stages,<sup>20</sup> and IMPACT plus bonus payments.<sup>21</sup>

The subtitle establishes a special Pandemic Transition Fund to be administered by the Mayor. The Fund will be used to provide resources to public schools as they respond to the effects of the COVID-19 pandemic. Funding that is deposited into the Fund will be distributed in the following manner: 52.62 percent to District of Columbia Public Schools (DCPS) and 47.38 percent to District of Columbia Public Charter Schools (allocated to individual schools based on a formula-based payments). The Fund will sunset at the end of Fiscal Year 2024 and any remaining funds will be transferred to the General Fund.

The following tables show the base level funding at each grade level and the various add-ons:

<b>Weightings applied to counts of students enrolled at certain grade levels</b>		
<b>Grade Level</b>	<b>Weighting</b>	<b>Per Student Allocation in FY 2021</b>
Pre-Kindergarten 3	1.34	\$16,641
Pre-Kindergarten 4	1.30	\$16,145
Kindergarten	1.30	\$16,145
Grades 1-5	1.00	\$12,419
Grades 6-8	1.08	\$13,413
Grades 9-12	1.22	\$15,151
Alternative program	1.52	\$18,877
Special education school	1.17	\$14,530
Adult	0.89	\$11,053

<sup>17</sup> By amending The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2903 et seq.).

<sup>18</sup> By amending D.C. Official Code § 38-2902(b).

<sup>19</sup> DCPS is required to allocate to schools no less than 95 percent of its prior year allocation of UPSFF funds.

<sup>20</sup> Early Stages is an evaluation center that works with families to identify and address developmental delays in children under 5 years 11 months of age that have yet to enter the school system or are homeschooled.

<sup>21</sup> IMPACT plus is the performance-based compensation system for Washington Teachers’ Union members.

<b>Special Education Add-ons</b>			
<b>Level/ Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Student Supplemental Funds</b>
Level 1: Special Education	Eight hours or less per week of specialized services.	0.97	\$12,046
Level 2: Special Education	More than 8 hours and less than or equal to 16 hours per school week of specialized services.	1.20	\$14,903
Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services.	1.97	\$24,465
Level 4: Special Education	More than 24 hours per week which may include instruction in a self-contained (dedicated) special education school other than residential placement.	3.49	\$43,342
Special Education Compliance Funding	Weighting provided in addition to special education level add-on weightings on a per-student basis for Special Education compliance.	0.099	\$1,229
Attorney’s Fees Supplement	Weighting provided in addition to special education level add-on weightings on a per student basis for attorney’s fees.	0.089	\$1,105
Residential	DCPS or public charter school that provides students with room and board in a residential setting, in addition to their instructional program.	1.67	\$20,740

<b>General Education Add-ons</b>			
<b>Level / Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Student Supplemental Funds</b>
Elementary ELL	Additional funding for English Language Learners in grades PK3-5.	0.50	\$6,210
Secondary ELL	Additional funding for English Language Learners in grades 6-12, alternative students, adult students, and students in special education schools.	0.75	\$9,314
At-Risk	Additional funding for students in foster care, who are homeless, on TANF or SNAP, or behind grade level.	0.24	\$2,981

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<b>General Education Add-ons</b>			
<b>Level / Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Student Supplemental Funds</b>
At-risk High School Over-age Supplement	Additional funding beyond the existing at-risk weight for students who are behind grade level in high school.	0.06	\$745

<b>Residential Add-ons</b>			
<b>Level/ Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Student Supplemental Funds</b>
Level 1: Special Education - Residential	Additional funding to support the after-hours Level 1 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	0.37	\$782
Level 2: Special Education - Residential	Additional funding to support the after-hours Level 2 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	1.34	\$2,819
Level 3: Special Education - Residential	Additional funding to support the after-hours Level 3 special education needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	2.89	\$6,098
Level 4: Special Education - Residential	Additional funding to support the after-hours Level 4 special education needs of limited and non-English proficient students living in a DCPS or public charter school that provides students with room and board in a residential setting.	2.89	\$6,098
LEP/NEP - Residential	Additional funding to support the after-hours limited and non-English proficiency needs of students living in a DCPS or public charter school that provides students with room and board in a residential setting.	0.668	\$8,296

<b>Special Education Add-ons for Students with Extended School Year (ESY) Indicated in Their Individualized Education Programs (IEPs)</b>			
<b>Level/ Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Student Supplemental Funds</b>
Special Education Level 1 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.063	\$782
Special Education Level 2 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.227	\$2,819
Special Education Level 3 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.491	\$6,098
Special Education Level 4 ESY	Additional funding to support the summer school/program needs for students who require extended school year services in their IEPs.	0.491	\$6,098

**Financial Plan Impact**

The 5.9 percent UPSFF base level increase will result in additional formula-driven local fund expenditures. The proposed fiscal year 2023 budget includes approximately \$1.98 billion for instructional budgets as a result of the UPSFF: \$1.05 billion for the District of Columbia Public Schools and \$926.14 million for the public charter schools. Charter schools will receive \$165.5 million for facilities allowances in fiscal year 2022, bringing the collective public charter school formula-driven local fund budget to \$1.09 billion.

The DCPS fiscal year 2023 budget also includes \$9.46 million for stabilization funding, \$9.79 million for Early Stages, and \$19.4 million for IMPACT plus bonuses. These budget allocations fall outside the UPSFF in fiscal year 2023. The Pandemic Transition Fund includes \$18.2 million in local funding of which \$9.6 million is set aside for DCPS and \$8.6 million is set aside for PCS.

**Subtitle (IV)(B) – Universal Paid Leave Amendment Act of 2022**

**Background**

On March 1, 2022, the Office of the Chief Financial Officer certified<sup>22</sup> funding for the expansion of Universal Paid Leave benefits to a maximum of 12 weeks for qualifying parental, family, and medical leave, beginning July 1, 2022. The subtitle delays the expansion of benefits to October 1, 2022.

The subtitle also makes permanent the elimination of the one-week waiting period before receiving Universal Paid Leave benefits. The elimination of the waiting period is set to expire one year following the end of the declared public health emergency, which would be February 15, 2023.<sup>23</sup>

<sup>22</sup> See CFO certification letter sent to the Mayor and Council on March 1, 2022.

<sup>23</sup> The most recent extension of the public health emergency expired February 15, 2022. (See Mayor's Order 2022-019, issued January 26, 2022.)

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**Financial Plan Impact**

Delaying the expansion of benefits by one quarter will increase the available surplus in the Universal Paid Leave fund by \$7.1 million to a total of \$400 million in fiscal year 2022. Eliminating the one-week waiting period does not have a fiscal impact.

**Subtitle (IV)(C) – Recreation Programming Funding Expansion Amendment Act of 2022**

**Background**

The subtitle makes<sup>24</sup> technical adjustments to Department of Recreation (DPR) grants and eliminates the specified amount for grants provided to individual program providers and nonprofit organizations to assist in implementing a comprehensive program of public recreation.

**Financial Plan Impact**

The fiscal year 2023 budget includes \$3.85 million in local funding for grants to individual program providers and nonprofit organizations to implement a comprehensive program of public recreation.

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<sup>24</sup> By amending Section 3(f) of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-302(f)).



## TITLE V – HUMAN SUPPORT SERVICES

### **Subtitle (V)(A) – Medicaid Home and Community-Based Services Enhancement Fund Establishment Act of 2022**

#### **Background**

The subtitle establishes<sup>25</sup> a non-lapsing Medicaid Home and Community-Based Services (HCBS) Enhancement Fund that will be administered by the Department of Health Care Finance. The Fund will collect unspent local funds from fiscal years 2021 and 2022 equivalent to the amount of federal funds attributable to the increase in the federal medical assistance percentage (FMAP) authorized in by section 9817 of the American Rescue Plan Act of 2021 (ARPA).<sup>26</sup> Section 9817 of the ARPA provides states with a temporary 10 percentage point increase to the FMAP for certain Medicaid HCBS from April 1, 2021 through March 31, 2022.

The Centers for Medicare and Medicaid Services (CMS) requires that the District use the savings that result from this temporary FMAP increase to implement activities that enhance, expand, or strengthen Medicaid HCBS. The District must adhere to a spending plan provided to and approved by CMS.<sup>27</sup>

#### **Financial Plan Impact**

The subtitle will allow DHCF to deposit \$49.3 million of unspent local funding from fiscal years 2021 and 2022 into the HCBS Enhancement Fund. These funds will be used to implement the spending plan approved by CMS across multiple agencies.

### **Subtitle (V)(B) – Direct Care Professional Payment Rate Act of 2022**

#### **Background**

The subtitle requires the Mayor, by fiscal year 2025, to set a reimbursement rate for direct care service providers that is sufficient to pay direct care professionals a wage that is, on average, equal to at least 117.6% of the District minimum wage or the District living wage, whichever is greater. The District’s living wage is currently \$15.50 per hour. On July 1, 2022, it will increase to \$16.10 per hour.<sup>28</sup>

Each direct care service provider reimbursed at this higher rate must pay its direct care professionals, on average, at least 117.6% of the District minimum wage or living wage, whichever is greater, in fiscal year 2025 and in each subsequent year

Direct care services are those authorized under the District of Columbia Medicaid State Plan (or by State Plan waivers) that are home and community-based, rehabilitative, or in Intermediate Care Facilities for Individuals with Intellectual Disabilities.

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<sup>25</sup> By amending The Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.*).

<sup>26</sup> As authorized by section 9817 of the of the American Rescue Plan Act of 2021, approved March 11, 2021 (135 Stat. 216; 42 U.S.C. 1396d note).

<sup>27</sup> See: [Initial Spending Plan and Narrative for Enhanced Funding](#)

<sup>28</sup> According to: <https://mayor.dc.gov/release/dc-residents-reminded-new-laws-going-effect-january-1-2022>

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Direct care professionals are employees of a direct care service provider who provide direct care services for at least 50% percent of the employee's work hours.

### Financial Plan Impact

Funds have been included in the budget and financial plan for the subtitle.

Even though it is not required by the subtitle, the Department of Health Care Finance (DHCF) plans on using \$38.6 million in FY 2023 and \$78.9 million in FY 2024 to provide a partial wage increase (a portion of the 117.6% of the living wage) for direct care professionals during these two years. The local cost of these increases will be \$11.6 million and \$23.7 million, respectively, due to federal funding covering 70% of these costs.

Much of the local funding for these increases in fiscal year 2023 and fiscal year 2024 will come from the newly established Medicaid Home and Community-Based Services (HCBS) Enhancement Fund, (see subtitle A, above). The Fund will cover the entire local portion of the planned increase in fiscal year 2023 and half of the local portion of the increase in fiscal year 2024. Money in the HCBS Enhancement Fund must be used by March 2024.

Starting in fiscal year 2025, the subtitle requires a wage increase to 117.6% of the living wage, or minimum wage, whichever is higher. The Office of Revenue Analysis estimates this will cost a total of \$130.3 million in fiscal year 2025 and \$133.2 million in fiscal year 2026, with the local costs during these years totaling \$39.1 million and \$40.0 million, respectively. Funding for these years has been included in the financial plan. The cost for fiscal years 2025 and 2026 is based on current wages for direct care professionals totaling \$681 million and assumes the living wage will increase annually based on announced increases and inflation projections.

<b>Subtitle V(B), Direct Care Professional Payment Rate Act of 2022</b>					
<b>Fiscal Year 2023 - Fiscal Year 2026</b>					
<b>(\$ in thousands)</b>					
	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Four-Year Total</b>
<b>Gross funding</b> for increase to 117.6% of the living wage by FY25	\$38,607	\$78,912	\$130,345	\$133,212	\$381,075
<b>Local funding</b> portion	\$11,582	\$23,674	\$39,103	\$39,964	\$114,323

Table Notes:

- Local funding is 30% of gross funding due to the District's Federal Medical Assistance Percentage (FMAP) of 70%
- Funding prior to FY 2025 is not required by the subtitle but has been included as a policy choice.
- Funding needed for the subtitle beginning in FY 2025 is based on the current total of \$681 million in direct care professional wages and assumes the following annual increases in the living wage: 3.9% in FY 23, 2.4% in FY 24, 2.2% in FY 25, and 2.2% in FY 26.

**Subtitle (V)(C) – Alliance Enrollment Amendment Act of 2022**

**Background**

The subtitle extends<sup>29</sup> the DC Health Care Alliance (Alliance) program enrollment period from six months to twelve months. Under the subtitle, Alliance enrollees will be required to recertify their enrollment every twelve months either in person, over the telephone, or through electronic means, including through a web-based portal.

**Financial Plan Impact**

The subtitle is projected to increase Alliance enrollment because the changes will reduce the number of current enrollees who typically fail to re-enroll in the program at their six-month coverage expiration date. The Department of Health Care Finance requires additional funding to cover the monthly premium costs for enrollees who will no longer lose coverage. The DHCF budget and financial plan includes an enhancement of \$4.18 million in fiscal year 2023 and a total of \$47.65 million over the financial plan to implement the subtitle.

<b>Subtitle (V)(C), Alliance Enrollment Amendment Act of 2022</b>					
<b>Fiscal Year 2023 – Fiscal Year 2026</b>					
<b>(\$ thousands)</b>					
	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Total</b>
<b>Cost of increased enrollment</b>	<b>\$4,176</b>	<b>\$10,175</b>	<b>\$16,634</b>	<b>\$16,664</b>	<b>\$47,649</b>

Table Notes:

- (a) Alliance coverage is estimated to cost \$554 per person, per month, in fiscal year 2023. The cost of Alliance coverage is assumed to decrease slightly in fiscal year 2024 as the pool of enrollees becomes healthier. After enrollment stabilizes, costs per person are assumed to increase by three percent annually beginning in fiscal year 2025 due to inflation.

<sup>29</sup> By amending Section 7b of the Health Care Privatization Amendment Act of 2001, effective December 13, 2017 (D.C. Law 22-35; D.C. Official Code § 7-1407).

## TITLE VI – OPERATIONS AND INFRASTRUCTURE

### **Subtitle (VI)(A) – Private Detective Regulation and Licensure Amendment Act of 2022**

#### **Background**

The subtitle updates statutory language to clarify that the Mayor has authority to regulate private detective licensees and establishes a fee for the license. The licenses are currently issued by the Department of Consumer and Regulatory Affairs at a fee of \$158 per year, and the subtitle maintains that fee.

#### **Financial Plan Impact**

This subtitle does not have a financial impact.

### **Subtitle (VI)(B) – Seasonal Business License Fee Amendment Act of 2022**

#### **Background**

The current fee for an initial basic business license (“BBL”) or renewal is \$70 for two years or \$140 for four years.<sup>30</sup> Each endorsement added to a BBL license costs \$25 regardless of length of the license term. The subtitle creates a six-month basic business license with a licensee fee of \$35 and an endorsement fee of \$12.50.

#### **Financial Plan Impact**

This subtitle has no impact on the budget or financial plan. It is not known how many new licensees might take advantage of the six-month license. Current two- and four-year license holders are not expected to shift to a six month license, which is more expensive on an annual basis.

### **Subtitle (VI)(C) – Climate Change Resilience Expenditure Authority Amendment Act of 2022**

#### **Background**

The Department of Energy and Environment (DOEE) manages resources in two special purpose revenue funds to support the District’s energy, environmental, and energy sector job training efforts. One fund is the Sustainable Energy Trust Fund (SETF)<sup>31</sup> that collects fees from electricity, natural gas, and oil providers. DOEE uses these resources for grants, loans, and low-income customer bill support to support weatherization efforts for low-income residents and other energy efficiency programs. The second fund is the Renewable Energy Development Fund (REDF)<sup>32</sup> that collects compliance fees from electricity and gas suppliers that are unable to meet the required share of their supply from renewable energy sources. DOEE uses REDF resources to expand solar energy generation in the District.

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<sup>30</sup> D.C. Official Code § 47-2851.08 sets the general business license fee at \$70, and D.C. Official Code § 47-2851.09(a)(2) requires that a four-year license renewal be charged twice the fee of a two year license.

<sup>31</sup> Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1774.10(c)).

<sup>32</sup> Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code 34-1436(c)(1)).

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The subtitle expands the allowable uses of both the SETF and REDF to include support for projects and programs that increase climate change resilience in the District. The projects and programs should be consistent with each fund’s objectives of enhancing solar and other sustainable energy resources.

**Financial Plan Impact**

DOEE manages the resources for the SETF and REDF and expanding the allowable expenditure list to include climate resiliency projects and programs does not impose a budgetary cost on the agency. DOEE does not have specific climate resiliency projects or programs planned for fiscal year 2023 and can only expend resources on these new initiatives if funding is available within each fund.

**Subtitle (VI)(D) – Approval of Contracts in the District’s Transportation Improvement Plan Amendment Act of 2022**

**Background**

The District Department of Transportation (DDOT) manages an over \$1.8 billion capital improvements program.<sup>33</sup> Many of the projects, and thus the underlying contracts, extend across multiple years. When a contract costs over \$1 million or is a multi-year contract, the Mayor must send that approval or extension to Council for approval.

The subtitle exempts DDOT from seeking Council approval for option years of contracts where the project is included in DDOT’s multi-year capital improvements plan.

**Financial Plan Impact**

Under the subtitle, DDOT would no longer need to send the option years of a multi-year contract to the Council for approval. The subtitle does not change the funding for these contracts and there are no budgetary costs to grant DDOT this exemption.

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<sup>33</sup> Fiscal year 2022 through fiscal year 2026 capital improvements program.

## TITLE VII – FINANCE AND REVENUE

### **Subtitle (VII)(A) – District Integrated Financial System Implementation Amendment Act of 2022**

#### **Background**

The subtitle conforms the code to budgeting practices that will be part of the new District Integrated Financial System (“D.I.F.S.”), which is planned to go live in fiscal year 2023. First, the subtitle removes requirements and references related to intra-District transfers, which will be accounted for differently under D.I.F.S. Second, the subtitle eliminates the requirement for a purchase card paper agency, which will not be required under D.I.F.S.

#### **Financial Plan Impact**

This subtitle does not have a cost. It conforms the budgeting requirements to the procedures which will be implemented under D.I.F.S.

### **Subtitle (VII)(B) – Reprogramming of American Rescue Plan Act Funds Act of 2022**

#### **Background**

The subtitle exempts funds received through the federal American Rescue Plan Act<sup>34</sup> and the Coronavirus Aid, Relief, Act Economic Security Act<sup>35</sup> from Council approval requirements<sup>36</sup> for reprogrammings. Provided there are sufficient funds, and provided the funds are being used consistent with the purpose for which they were appropriated, the subtitle authorizes the Office of the Chief Financial Officer to transfer funding from these two federal sources at the request of the Mayor.

#### **Financial Plan Impact**

This subtitle does not have a cost.

### **Subtitle (VII)(C) – Capital Improvements Program Funding Amendment Act of 2022**

#### **Background**

The subtitle authorizes funding from the Infrastructure Investment and Jobs Act<sup>37</sup> (IIJA) to be counted toward the required minimum amount of local or dedicated funds required to be spent as “Paygo” funding in the Capital Improvement Plan (“CIP”). Under current law<sup>38</sup> the minimum amount of Paygo funding that must be transferred to the CIP each fiscal year is equal to the sum of \$58.95 million plus 25 percent of any increase in total local funding from the prior fiscal year, except for fiscal year 2025, in which the minimum transfer is set to \$206 million.

#### **Financial Plan Impact**

The proposed budget and financial plan relies on approximately \$180 million of funding from the federal IIJA in FY 2026 to meet the required Paygo funding for the CIP.

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<sup>34</sup> Approved March 11, 2021 (Pub. L. 117-2; 135 Stat. 4).

<sup>35</sup> Approved March 27, 2020 (Pub. L. No. 116-136; 134 Stat. 28).

<sup>36</sup> D.C. Official Code § 47-363.

<sup>37</sup> Approved November 15, 2021 (Pub. L. 117-58; 135 Stat. 429).

<sup>38</sup> D.C. Official Code § 47-392.02(f).

**Subtitle (VII)(D) – District Unemployment Fund Funding Amendment Act of 2022**

**Background**

Under current law<sup>39</sup>, end of year uncommitted fund balance remaining after all reserves are replenished is evenly split and transferred to the Housing Production Trust Fund<sup>40</sup> (“HPTF”) and the Pay-As-You-Go Capital (“Pay-go”) funding. For end of fiscal year 2022 only, the subtitle transfers \$113 million of uncommitted unrestricted fund balance to the District’s Unemployment Fund<sup>41</sup> first, and then splits the remaining uncommitted fund balance between HPTF and Pay-go.

**Financial Plan Impact**

The subtitle will change the allocation of any surplus that may be available after completion of the next Annual Comprehensive Financial Report, but a surplus is not included in the proposed budget and financial plan.

**Subtitle (VII)(E) – Gross Income Exclusion Amendment Act of 2022**

**Background**

The subtitle exempts from District income taxes the Downtown Destination grants authorized under subtitle II-D. The authority of the subtitle is limited to exempting grants from District income taxes. Recipients may still be required to include them in their federal taxable income.

**Financial Plan Impact**

The exclusion does not have a cost, as the grants were not anticipated to be included in taxable income in the revenue estimates.

**Subtitle (VII)(F) – Seniors and Individuals with Disabilities Real Property Tax Increase Limit Amendment Act of 2022**

**Background**

Under current law<sup>42</sup>, residential property receiving the homestead deduction<sup>43</sup> and Senior or Disabled Owner Real Property Tax Relief<sup>44</sup> are provided a senior assessment cap credit on their property tax bills so that the real property is not taxed more than a 5 percent increase in the property's taxable assessed value, annually. The subtitle lowers the allowable increase to 2 percent.

**Financial Plan Impact**

The proposed budget and financial plan incorporates a reduction in real property tax revenue from the subtitle as follows:

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<sup>39</sup> D.C. Official Code § 47-392.02(j-5).

<sup>40</sup> D.C. Official Code § 42-2801, *et seq.*

<sup>41</sup> D.C. Official Code § 51-102.

<sup>42</sup> D.C. Official Code § 47-864.

<sup>43</sup> D.C. Official Code § 47-850(b).

<sup>44</sup> D.C. Official Code § 47-863

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<b>Subtitle (VII)(F) – Senior and Individuals with Disabilities Real Property Tax Increase Limit Amendment Act of 2022 (\$ in thousands)</b>					
	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Total</b>
Reduced Real Property Tax Revenue	(\$879)	(\$1,803)	(\$2,779)	(\$3,814)	(\$9,276)

**Subtitle (VII)(G) – Subject to Appropriation Repeals**

**Background**

The subtitle authorizes expenditures for two laws (see table below) which were passed subject to appropriations. Each required expenditures or revenue reductions that have now been included in the proposed budget and financial plan.

**Financial Plan Impact**

The costs that have been funded in the budget and financial plan are listed below for each law or act that will become effective under the subtitle:

<b>Subtitle (VII)(G), Subject to Appropriations Repeals Fiscal Year 2023 – Fiscal Year 2026 (\$ in thousands)</b>					
<b>Act Name</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>Total</b>
Flavored Tobacco Product Prohibition Amendment Act of 2021 <sup>a</sup>	\$3,713	\$3,715	\$3,716	\$3,719	\$14,862
Developmental Disability Eligibility Reform Amendment Act of 2021	\$0	\$523	\$541	\$553	\$1,617

**Table Notes**

- a. Cost includes a revenue reduction of approximately \$2.9 million annually



TITLE VIII – SPECIAL PURPOSE AND DEDICATED REVENUE FUNDS

**Subtitle (VIII)(A) – Designated Fund Transfer Act of 2022**

**Background**

The subtitle allows the District to use fund balance available in special purpose funds and the Universal Paid Leave Fund as a source of funding for the proposed fiscal year 2023 through fiscal year 2026 budget and financial plan. The affected funds and transfer amounts are listed in the chart below:

<b>Fund Name</b>	<b>Amount (\$)</b>
Subrogation Fund <sup>45</sup>	\$155,063
OPLA Special Account <sup>46</sup>	\$740,475
Pesticide Product Registration <sup>47</sup>	\$50,000
SHPDA Fees <sup>48</sup>	\$133,000
Pharmacy Protection <sup>49</sup>	\$86,610
Board of Medicine <sup>50</sup>	\$194,732
Bill of Rights (Grievance and Appeals) <sup>51</sup>	\$314,434
Medicaid Collections-Third Party Liability <sup>52</sup>	\$250,000
Individual Insurance Market Affordability <sup>53</sup>	\$3,489,103
HPAP - Repay <sup>54</sup>	\$466,818
SSI Payback <sup>55</sup>	\$400,000
Enterprise Fund Account <sup>56</sup>	\$317,774
DC Circulator Fund - NPS Mall Route <sup>57</sup>	\$211,204
Housing Production Trust Fund <sup>58</sup>	\$8,697,000
Recorder of Deeds Surcharge <sup>59</sup>	\$1,600,000
DC NET Services Support <sup>60</sup>	\$2,650,368
Student Residency Verification Fund <sup>61</sup>	\$474,595
Child Development Facilities Fund <sup>62</sup>	\$161,275

<sup>45</sup> D.C. Official Code § 1-325.391

<sup>46</sup> D.C. Official Code § 47-2853.11

<sup>47</sup> D.C. Official Code § 8-438.01

<sup>48</sup> D.C. Official Code § 44-420.0

<sup>49</sup> D.C. Official Code § 7-733.02

<sup>50</sup> D.C. Official Code § 7-731

<sup>51</sup> D.C. Official Code § 44-301.01 et seq.

<sup>52</sup> D.C. Official Code § 4-803

<sup>53</sup> D.C. Official Code § 47-5107

<sup>54</sup> D.C. Official Code § 42-2601 - § 42-2603

<sup>55</sup> D.C. Official Code § 4-204.07 and § 4-204.09

<sup>56</sup> D.C. Official Code § 10-303

<sup>57</sup> D.C. Official Code § 50-921.33

<sup>58</sup> D.C. Official Code § 42-2802

<sup>59</sup> D.C. Official Code § 42-1214

<sup>60</sup> D.C. Official Code § 1-1432

<sup>61</sup> D.C. Official Code § 38-312.02

<sup>62</sup> D.C. Official Code § 7-2036.01

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Prepaid Wireless 911 Charges <sup>63</sup>	\$171,775
Universal Paid Leave Fund <sup>64</sup>	\$419,901,325

**Financial Plan Impact**

The subtitle provides approximately \$440.5 million to balance the proposed fiscal year 2023 through fiscal year 2026 budget and financial plan. Universal Paid Leave Fund amounts include amounts certified by the CFO in the March 1, 2022 certification letter as well as the \$7.1 million available under Subtitle IV(b).

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<sup>63</sup> D.C. Official Code § 34-1802

<sup>64</sup> D.C. Official Code § 32-551.01