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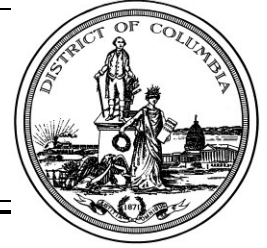
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# COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT

ELISSA SILVERMAN, CHAIRPERSON  
FISCAL YEAR 2022 COMMITTEE BUDGET REPORT

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**TO:** Members of the Council of the District of Columbia

**FROM:** Councilmember Elissa Silverman  
Chairperson, Committee on Labor and Workforce Development

**DATE:** June 30, 2021

**SUBJECT:** Report and Recommendations of the Committee on Labor and Workforce Development on the Fiscal Year 2022 Budget for Agencies Under Its Purview

The Committee on Labor and Workforce Development (“Committee”), having conducted hearings and received testimony on the Mayor’s proposed operating and capital budgets for Fiscal Year 2022 (“FY 2022”) 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 2022 Budget Support Act of 2021, as proposed by the Mayor.

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# I. SUMMARY

## A. EXECUTIVE SUMMARY

### EXECUTIVE SUMMARY

More than 15 months ago, starting on March 11, 2020, life in the District of Columbia was turned upside down. That was the day Mayor Muriel Bowser declared a public health emergency due to the coronavirus, and shortly thereafter, conventions were cancelled, sporting events and entertainment venues shuttered, restaurants and bars were closed, and office workers were told to work from home. Parts of DC's economy, particularly the hospitality sector and its workers, were clobbered in the effort to curb transmission of COVID-19. Since then, more than 200,000 DC workers have filed a claim for some type of unemployment assistance due to layoffs or a loss of income. While some businesses and non-profits were able to transition to virtual platforms and continue operations with employees working remotely, others were put in much more dire straits: They either had to shut down completely, laying off workers, or if they were an essential business such a grocery or hardware store, had to put workers at health risk to serve the greater good.

This was an incredible sacrifice that DC government asked of our residents, workers, and businesses to protect public health. Though everyone was impacted by the pandemic, not everyone was impacted equally. More than 1,000 D.C. residents lost their lives due to COVID-19, and a majority of those who died were Black. Some businesses had to cease operations and lay off workers, unable to meet payroll or rent, while others were able to continue remotely. The Mayor and Council acted quickly to provide for the needs of both businesses and workers. Critical to the Labor Committee was implementation of a massive federal expansion of unemployment insurance. Actions taken by Congress and signed by the President created pandemic benefits for independent contractors, increased weekly benefit amounts, and extended the amount of time eligible workers could collect unemployment compensation. It has been a critical safety net and lifeline for families, though many of our workers have experienced great difficulty receiving unemployment compensation in a timely fashion. Some have waited weeks, if not months, for proper payments, putting them in financial peril. The Council also took other measures to help workers and businesses stay afloat and stay healthy amidst the pandemic by enacting a ban on evictions and foreclosures, providing grants for local businesses, deploying federal funds to help pay rent and utilities, prohibiting rent increases and utility shutoffs, enabling "streeteries" to help restaurants, and putting COVID-19-related workplace protections in place.

As the District has met its goal of getting more than 70 percent of residents vaccinated and the District has begun to open up and resume much of pre-COVID life, some workers and businesses still feel like they've taken a major blow and worry that it could become a knock-out punch. Many hospitality workers, who worked for hotels, catering, and convention-related businesses, will experience a slow return to work, if they return at all. Some will need training or support finding a new job in a new industry. Other

workers might have returned or will return to some employment, but it is not full-time. The impact is not just on these workers, but their families, including their children. Research shows that economic instability, including housing and food instability, has a deleterious impact on learning and social-emotional development. We need to act now, and deploy resources now, so that the investments we make in education, public safety, health and other areas will have a return on investment and truly help our residents.

This is a pivotal time for our city, and it is also one of opportunity. As the District recovers from the pandemic, this Committee's guiding principle is to direct resources strategically to help those most impacted by the pandemic, strengthen our economy, and build a workforce development pipeline in our high-demand industries so that District residents will get hired into living-wage careers in these sectors. That will benefit our entire city, strengthening our tax base and our communities. This also means we need to focus our investments where they can do the most good in the long run, by jump-starting projects now. The influx of federal funds from the American Rescue Plan gives us the resources to do this: \$2 billion to the District with \$200 million in this Committee's budget. This is an extraordinary amount of money that must do an extraordinary amount of good work. We have to leverage this to make once-in-a-lifetime investments and set up our city for recovery and growth in the long term.

To help realize this vision, the Committee makes the following investments and legislative improvements:

#### **Direct Financial Assistance for Those Most Impacted by the Pandemic**

- Continued **assistance to D.C. residents who are excluded** from receiving federal unemployment benefits including undocumented workers, cash economy workers, and returning citizens, totaling \$20 million
- Permanently **making unemployment benefits received by District residents exempt from local income taxes**, totaling \$29 million
- **Stimulus payments of \$1,500 for up to 10,000 District residents who endured extraordinarily long times before receiving their unemployment compensation payments**, totaling \$15.5 million
- Targeted **grants to businesses** through DMPED for small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses during the public health emergency and need assistance with paying back rent or other costs of reopening, totaling \$30 million
- Providing **Heroes Pay to thank and reward the thousands of District workers** in essential jobs who risked their health and their lives during the pandemic, totaling \$5 million
- Incentive payments for unemployed District residents to complete **STAY DC rental assistance applications**, totaling \$5.5 million

- Eviction Diversion Coordination to **reduce eviction filings and its harm**, totaling \$1.5 million
- Flexible funding for **survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking**, \$3 million
- Funding a new **Commission on Poverty** to study and make recommendations for reducing poverty in the District, totaling \$2.7 million over the four-year plan

### **Expanding Universal Paid Leave Now and Into the Future**

- **Expanding medical leave benefits from 2 weeks to up to 6 weeks in FY2022**, totaling \$98 million
- **Adding two weeks of pre-natal leave benefits in FY2022**, totaling \$7 million
- Requiring **quarterly and annual reviews by the Chief Financial Officer** of fund spending, revenue, and balance, and providing for **automatic benefits expansions** as funds are certified available.
- Ensuring access to paid leave, particularly for low-wage workers: removing the **waiting week**, providing benefits to workers regardless of **employment status**, allowing **retroactive** leave claims, expanding the **wage base** used to determine the amount of benefits for one year post-pandemic, and restoring earned **DC Family and Medical Leave Act (FMLA) eligibility** for those who return to their jobs after the pandemic

### **Building Career Pipelines for DC Residents in Living Wage, High-Demand Industries**

- Permanently putting in place a **school-year internship** program for DC high school students, totaling \$839,000 per year
- **For the first time with public dollars, funding a Jobs First Pilot** to help those with barriers such as homelessness and criminal backgrounds to obtain permanent employment in jobs that pay at least \$15/hour, totaling \$1.2 million over two years
- **Significantly boosting training for nursing careers at UDC and with community training providers**, totaling \$5.8 million over three years
- Restoring and expanding **health care workforce partnership training grants**, \$500,000
- **Ramping up IT training at UDC and with community training providers**, totaling \$6.2 million over three years, and creation of an IT occupational advisory board

### **Improving the Unemployment Insurance (UI) System**

- **“Hold harmless” employers** for COVID-related layoffs and furloughs by permanently waiving charges to employers for COVID-related benefits
- Funding user-friendly **informational videos** for UI claimants to help them understand and avoid common mistakes, totaling \$40,000 per year
- **Halting lawsuits against UI claimants** for overpayments during public emergencies and **setting a three-year limit** on such lawsuits during normal times
- Ensuring **workers who leave unsafe workplaces** can qualify for UI

### **Protecting Workers and Strengthening DC’s Economy**

- Establishing a **Workplace Rights Grants Program** at the Office of the Attorney General to provide education and assistance to workers on District employment laws, totaling \$867,000 per year
- Funding implementation of a new law to **prohibit non-compete agreements** that restrict workers from freely starting new businesses or changing jobs (as well as deferring the law’s implementation until April 1, 2022), totaling \$675,000 over the 4-year plan

### **Supporting and Strengthening Our D.C. Government Workforce**

- Analyzing **DC government employee residency through a research study** and how to increase the portion of employees who live in DC, totaling \$150,000
- Requiring DC Department of Human Resources to **notify and repay approximately 18,000 current and former DC government employees who were overcharged** their premiums for disability insurance
- Full implementation of new law to provide **employment protections to DC government employees who are medical marijuana patients**, totaling \$280,000
- Restoring **3 positions to the DC Department of Human Resources** to ensure adequate service levels, totaling \$218,000

## B. FISCAL YEAR 2022 AGENCY OPERATING BUDGET SUMMARY

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
<b>DC Department of Human Resources (BE0)</b>						
LOCAL FUND	\$11,827,268	\$10,518,875	\$11,126,772	\$368,045	\$11,494,817	9.28%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$448,232	\$593,214	\$749,845	\$0	\$749,845	26.40%
OPERATING INTRA-DISTRICT FUNDS	\$7,730,413	\$7,346,834	\$7,993,718	\$0	\$7,993,718	8.80%
TOTAL GROSS FUNDS	\$20,005,913	\$18,458,922	\$19,870,336	\$368,045	\$20,238,381	9.64%

<b>Department of Employment Services (CF0)</b>						
LOCAL FUND	\$55,791,421	\$56,000,942	\$54,964,322	\$14,924,756	\$69,889,078	24.80%
FEDERAL PAYMENTS	\$115,378	\$0	\$65,435,524	(\$9,931,360)	\$55,504,164	!
FEDERAL GRANT FUND	\$32,523,715	\$42,083,597	\$44,005,375	\$0	\$44,005,375	4.57%
PRIVATE GRANT FUND	\$2,369,523	\$260,005	\$928,007	\$0	\$928,007	256.92%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$41,300,687	\$61,688,712	\$70,639,881	\$0	\$70,639,881	14.51%
ENTERPRISE AND OTHER FUNDS	\$10,914,743	\$0	\$0	(\$750,000)	(\$750,000)	
OPERATING INTRA-DISTRICT FUNDS	\$2,886,610	\$1,573,947	\$1,535,120	\$0	\$1,535,120	(2.47%)
TOTAL GROSS FUNDS	\$145,902,076	\$161,607,204	\$237,508,229	\$4,243,396	\$241,751,625	49.59%

<b>Employees' Compensation Fund (BG0)</b>						
LOCAL FUND	\$21,176,876	\$22,146,568	\$22,146,569	\$0	\$22,146,569	0.00%
TOTAL GROSS FUNDS	\$21,176,876	\$22,146,568	\$22,146,569	\$0	\$22,146,569	0.00%

<b>Office of Employee Appeals (CH0)</b>						
LOCAL FUND	\$2,175,616	\$2,234,311	\$2,234,311	\$0	\$2,234,311	0.00%
TOTAL GROSS FUNDS	\$2,175,616	\$2,234,311	\$2,234,311	\$0	\$2,234,311	0.00%

<b>Office of Labor Relations and Collective Bargaining (Part of AE0, Office of City Administrator)</b>						
LOCAL FUND	\$0	\$0	\$2,636,044	(\$50,000)	\$2,586,044	
TOTAL GROSS FUNDS	\$0	\$0	\$2,636,044	(\$50,000)	\$2,586,044	

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
<b>Public Employee Relations Board (CG0)</b>						
LOCAL FUND	\$1,117,441	\$1,295,666	\$1,364,584	(\$50,000)	\$1,314,584	1.46%
TOTAL GROSS FUNDS	\$1,117,441	\$1,295,666	\$1,364,584	(\$50,000)	\$1,314,584	1.46%

<b>Unemployment Compensation Fund (BH0)</b>						
LOCAL FUND	\$7,946,800	\$5,480,390	\$5,480,390	\$0	\$5,480,390	0.00%
TOTAL GROSS FUNDS	\$7,946,800	\$5,480,390	\$5,480,390	\$0	\$5,480,390	0.00%

<b>Unemployment Insurance Trust Fund (UI0)</b>						
FEDERAL PAYMENTS	\$873,655,054	\$215,292,448	\$0	\$0	\$0	FEDERAL PAYMENTS
FEDERAL GRANT FUND	\$96,036,696	\$0	\$0	\$0	\$0	FEDERAL GRANT FUND
ENTERPRISE AND OTHER FUNDS	\$597,492,130	\$464,778,369	\$262,315,937	\$0	\$262,315,937	ENTERPRISE AND OTHER FUNDS
TOTAL GROSS FUNDS	\$1,567,183,880	\$680,070,817	\$262,315,937	\$0	\$262,315,937	TOTAL GROSS FUNDS

<b>Universal Paid Leave (UL0)</b>						
ENTERPRISE AND OTHER FUNDS	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)
TOTAL GROSS FUNDS	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)

<b>Workforce Investments (UP0)</b>						
LOCAL FUND	\$0	\$0	\$72,449,251	\$0	\$72,449,251	
TOTAL GROSS FUNDS	\$0	\$0	\$72,449,251	\$0	\$72,449,251	

<b>Workforce Investment Council (part of GW0, Deputy Mayor for Education)</b>						
LOCAL FUND	\$2,013,289	\$4,684,548	\$3,432,028	\$500,000	\$3,932,028	(16.06%)
FEDERAL PAYMENTS	\$0	\$0	\$0	\$16,796,312	\$16,796,312	#DIV/0!
OPERATING INTRA-DISTRICT FUNDS	\$1,407,669	\$1,401,831	\$1,520,741	\$0	\$1,520,741	8.48%
FEDERAL PAYMENTS	\$0	\$0	\$0	\$4,563,000	\$4,563,000	#DIV/0!
TOTAL GROSS FUNDS	\$3,420,958	\$6,086,379	\$4,952,769	\$21,859,312	\$26,812,081	340.53%



## C. FISCAL YEAR 2022 AGENCY FULL-TIME EQUIVALENT

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
<b>DC Department of Human Resources (BE0)</b>						
LOCAL FUND		100.00	114.00	3.00	117.00	17.00%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		5.80	7.80	0.00	7.80	34.48%
OPERATING INTRA-DISTRICT FUNDS		39.60	42.00	0.00	42.00	6.06%
<b>TOTAL FTE</b>		<b>145.40</b>	<b>163.80</b>	<b>3.00</b>	<b>166.80</b>	<b>14.72%</b>

<b>Department of Employment Services (CF0)</b>						
LOCAL FUND		248.20	230.44	7.00	237.44	(4.34%)
FEDERAL PAYMENTS		0.00	0.00	(1.00)	(1.00)	#DIV/0!
FEDERAL GRANT FUND		229.86	229.92	0.00	229.92	0.03%
PRIVATE GRANT FUND		0.00	0.00	0.00	0.00	
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		329.49	353.19	0.00	353.19	7.19%
ENTERPRISE AND OTHER FUNDS		0.00	0.00	0.00	0.00	
OPERATING INTRA-DISTRICT FUNDS		6.20	8.40	0.00	8.40	35.48%
<b>TOTAL FTE</b>		<b>813.75</b>	<b>821.95</b>	<b>6.00</b>	<b>827.95</b>	<b>1.75%</b>

<b>Employees' Compensation Fund (BG0)</b>						
LOCAL FUND		49.00	49.00	0.00	49.00	0.00%
<b>TOTAL FTE</b>		<b>49.00</b>	<b>49.00</b>	<b>0.00</b>	<b>49.00</b>	<b>0.00%</b>

<b>Office of Employee Appeals (CH0)</b>						
LOCAL FUND		15.00	14.40	0.00	14.40	(4.00%)
<b>TOTAL FTE</b>		<b>15.00</b>	<b>14.40</b>	<b>0.00</b>	<b>14.40</b>	<b>(4.00%)</b>

<b>Office of Labor Relations and Collective Bargaining (Part of AE0, Office of City Administrator)</b>						
LOCAL FUND		0.00	17.00	0.00	17.00	
<b>TOTAL FTE</b>		<b>0.00</b>	<b>17.00</b>	<b>0.00</b>	<b>17.00</b>	

<b>Public Employee Relations Board (CG0)</b>						
LOCAL FUND		8.00	8.00	0.00	8.00	0.00%
<b>TOTAL FTE</b>		<b>8.00</b>	<b>8.00</b>	<b>0.00</b>	<b>8.00</b>	<b>0.00%</b>

<i>Fund Type</i>		<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
<b><i>Unemployment Compensation Fund (BH0)</i></b>						
LOCAL FUND		0.00	0.00	0.00	0.00	
TOTAL FTE		0.00	0.00	0.00	0.00	

<b><i>Unemployment Insurance Trust Fund (UI0)</i></b>						
FEDERAL PAYMENTS		0.00	0.00	0.00	0.00	
FEDERAL GRANT FUND		0.00	0.00	0.00	0.00	
ENTERPRISE AND OTHER FUNDS		0.00	0.00	0.00	0.00	
TOTAL FTE		0.00	0.00	0.00	0.00	

<b><i>Workforce Investments (UP0)</i></b>						
LOCAL FUND		0.00	0.00	0.00	0.00	
TOTAL FTE		0.00	0.00	0.00	0.00	

<b><i>Workforce Investment Council (part of GW0 Deputy Mayor for Education)</i></b>						
LOCAL FUND		10.61	8.97	0.00	8.97	(15.46%)
FEDERAL PAYMENTS		0.00	0.00	4.00	4.00	
OPERATING INTRA-DISTRICT FUNDS		3.39	3.93	0.00	3.93	15.93%
FEDERAL PAYMENTS		0.00	0.00	2.00	2.00	
TOTAL FTE		14.00	12.90	6.00	18.90	35.00%

## D. FY 2022 - 2027 AGENCY CAPITAL BUDGET SUMMARY

Row Labels	Allotment as of 26 May 2021 (includes Pre-Encumbrances)	2022 Planned Allotment	2023 Planned Allotment	2024 Planned Allotment	2025 Planned Allotment	2026 Planned Allotment	2027 Planned Allotment	Sum of FY 2022-FY 2027 Total Planned Allotment
<b>CF0</b>	45,658,828	39,370,370	16,255,150	0	0	0	0	55,625,520
<b>DEPARTMENT OF EMPLOYMENT SERVICES</b>								
DW101C	0	580,000	0	0	0	0	0	580,000
<b>DOES DATAWORKS</b>								
Mayor's Proposed FY22 Change	0	580,000	0	0	0	0	0	580,000
NWR01C	0	1,735,000	0	0	0	0	0	1,735,000
<b>4058 NETWORK INFRASTRUCTURE</b>								
Mayor's Proposed FY22 Change	0	1,735,000	0	0	0	0	0	1,735,000
PFL08C	5,526,351	0	0	0	0	0	0	0
<b>PAID FAMILY LEAVE IT APPLICATION</b>								
Existing Balances	5,526,351	0	0	0	0	0	0	0
SNTRCC	10,910,771	33,473,850	14,255,150	0	0	0	0	47,729,000
<b>DC INFRASTRUCTURE ACADEMY</b>								
Approved FY21 CIP for FY22-26	0	26,473,850	14,255,150	0	0	0	0	40,729,000
Mayor's Proposed FY22 Change	0	7,000,000	0	0	0	0	0	7,000,000
Existing Balances	10,910,771	0	0	0	0	0	0	0
SYP01C	0	300,000	2,000,000	0	0	0	0	2,300,000
<b>SUMMER YOUTH EMPLOYMENT PROGRAM- CAPITAL</b>								
Mayor's Proposed FY22 Change	0	300,000	2,000,000	0	0	0	0	2,300,000
UIM02C	29,221,705	3,281,520	0	0	0	0	0	3,281,520
<b>UI MODERNIZATION PROJECT-FEDERAL</b>								
Approved FY21 CIP for FY22-26	0	5,450,000	0	0	0	0	0	5,450,000
Mayor's Proposed FY22 Change	0	(2,168,480)	0	0	0	0	0	(2,168,480)
Existing Balances	29,221,705	0	0	0	0	0	0	0
<b>Grand Total</b>	<b>45,658,828</b>	<b>39,370,370</b>	<b>16,255,150</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55,625,520</b>

## E. TRANSFERS WITH OTHER COMMITTEES

Transfers in from Other Committees						
<i>Sending Committee</i>	<i>Amount</i>	<i>FTEs</i>	<i>Receiving agency</i>	<i>Program</i>	<i>Purpose</i>	<i>Recurring or One-Time</i>
Recreation	\$667,248	3	DOES	Poverty commission 7400	Commission on Poverty Establishment Amendment Act of 2020 (B23-90)	recurring
COW	\$9,126,000 million	2.0	WIC	Workforce Investment 3012	WIC career coaches	Recurring (two years) (ARPA)
Business	\$2,000,000		DOES	4810 Year Round Youth	Workforce development grants for youth in Wards 7 and 8	One-time (ARPA)
<b>Total</b>	<b>\$9,128,667</b>	<b>4.0</b>				

Transfers out to Other Committees						
<i>Receiving Committee</i>	<i>Amount</i>	<i>FTEs</i>	<i>Receiving agency</i>	<i>Program</i>	<i>Purpose</i>	<i>Recurring or One-Time</i>
Judiciary	\$139,465 per year; \$281,522 total over two years	1	CB0 Office of the Attorney General	Program 1200	B23-309, Medical Marijuana Program Patient Protection Amendment Act of 2020	Recurring (for two years)
Judiciary	\$867,899	1	CB0 Office of the Attorney General	9307 External Affairs	BSA subtitle: Workplace Rights Grant Program Establishment	recurring
Judiciary	\$1,500,000	0	FO0 Office of Victim Services and Justice Grants	Program 3000	Eviction Diversion	One-time (ARPA)
Judiciary	\$3,000,000	0	FO0 Office of Victim Services and Justice Grants	Program 4000 (Victim Services), Activity 4010 (Victim Services)	Flexible funding for survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking	One-time
Business and Economic Development	\$30,000,000	0	EB0 Office of the Deputy Mayor for Planning and Economic Development		Grants to small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses during the public health emergency	One-time
Business and Economic Development	\$28,633,076 (total over 4 years)		n/a (revenue reduction)	n/a	Make unemployment benefits received by District residents exempt from local income taxes	Recurring
Business and Economic Development	\$20,000,000	0	Events DC		Add \$20 million in payments to excluded workers	One-time
Human Services	\$5,500,000		JA0 Department of Human Services		Incentive payments for unemployed District residents to complete STAY DC applications	One-time
<b>Total</b>	<b>\$61 million one-time; \$29.6 million recurring</b>	<b>2.0</b>				

## F. FUNDING OF BUDGET SUPPORT ACT SUBTITLES

<i>Subtitle</i>	<i>Agency</i>	<i>Program/ Activity</i>	<i>Amount</i>	<i>FTEs</i>
Universal Paid Leave Amendment Act of 2021	UPL (ULO)	6000/6200	\$98,500,000 net one-time	0
Delayed Unemployment Compensation Payments Relief Amendment Act of 2021	DOES (CF0)	2000/2200	\$15,500,000 total	0
IT Community Training and Advisory Board Establishment Act of 2021	WIC (GW0)	3000/3012	\$6,180,667 total	1.0
DC Nurse Education Enhancement Program Amendment Act of 2021	WIC (GW0)	3000/3012	\$5,792,597 total	1.0
School Year Internship Program Amendment Act of 2021	DOES (CF0)	4000/4810	\$839,197 recurring	4.0
Jobs First DC Pilot Program Establishment Act of 2021	DOES (CF0)	5000/5100	\$1,213,000 total	1
Heroes Pay Act of 2021	WIC (GW0)	3000/3012	\$5,000,000 one-time	0
Workplace Rights Grants Program Establishment Act of 2021	OAG (CG0)	1200/1201	\$867,899 recurring	
The Unemployment Compensation Improvements Amendment Act of 2021	DOES (CF0)	2000/2200	\$40,000 recurring	0
District Government Employee Residency Research Amendment Act of 2021	DCHR (BE0)	1000/1010	\$150,000 one-time	0

## G. FUNDING OF PENDING BILLS OR LAWS PASSED SUBJECT TO APPROPRIATION

<i>Bill or Law #</i>	<i>Status</i>	<i>Agency</i>	<i>Program</i>	<i>Amount</i>	<i>FTEs</i>
B23-309, Medical Marijuana Program Patient Protection Amendment Act of 2020	Effective; Section 3(f) applicable when funded	OAG	1201 Personnel and Labor Litigation Activity	\$281,522 total over two years	1.0
B23-494, Ban on Non Compete Amendment Act of 2020	Effective, Applicable on April 1, 2022	DOES	3200 Office of Wage-Hour	\$104,894 (FY22) and \$675,910 total over four years	1.0
B23-90 Commission on Poverty Establishment Amendment Act of 2020	Effective, applicable when funded	DOES	7400 Poverty Commission	\$667,248 per year	3.0

## **H. SUMMARY OF COMMITTEE BUDGET RECOMMENDATIONS**

Please see the Executive Summary (Chapter I.A) and Attachment A to this report.

## II. AGENCY FISCAL YEAR 2022 BUDGET RECOMMENDATIONS

### A. INTRODUCTION

The Committee on Labor and Workforce Development is responsible for oversight of public and private sector employee and employer issues. This includes District employee personnel, disciplinary, appeal, and union matters; private sector labor standards including the minimum wage, paid sick and safe time, paid family and medical leave; private sector workers' compensation; unemployment insurance; and job training and workforce development programs.

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

- Adult Career Pathways Taskforce
- Apprenticeship Council
- Department of Employment Services
- Department of Human Resources
- Employees' Compensation Fund
- Office of Employee Appeals
- Office of Labor Relations and Collective Bargaining
- Public Employees Relations Board
- Unemployment Compensation Fund
- Universal Paid Leave Fund
- Workforce Investments Account
- Workforce Investment Council
- Youth Apprenticeship Advisory Committee

The Committee is chaired by Councilmember Elissa Silverman (At-Large). The other members of the Committee are Councilmembers Christina Henderson (At-Large), Janeese Lewis George (Ward 4), Robert White (At-Large), and Trayon White (Ward 8).

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

<b><i>Performance Oversight Hearings</i></b>	
<b>February 12, 2021</b>	Office of Employee Appeals Public Employee Relations Board
<b>February 23, 2021</b>	Department of Human Resources Office of Labor Relations & Collective Bargaining
<b>March 3, 2021</b>	Department of Employment Service Workforce Investment Council
<b>March 5, 2021</b>	Department of Employment Services (government witnesses)
<b>March 12, 2021</b>	Workforce Investment Council (government witnesses)

<b><i>Budget Oversight Hearings</i></b>	
<b>June 3, 2021</b>	Workforce Investment Council
<b>June 9, 2021</b>	Department of Employment Services (public witnesses)
<b>June 11, 2021</b>	Department of Employment Services (government witnesses)
<b>June 16, 2021</b>	Office of Employee Appeals Public Employee Relations Board
<b>June 21, 2021</b>	Department of Human Resources Office of Labor Relations and Collective Bargaining

The Committee received important comments from members of the public and government witnesses during these hearings. Copies of witness lists and witness testimony from the five budget hearings are included in this report as Attachment C. Copies of witness lists and witness testimony from the five performance oversight hearings may be found on the Legislative Information Management System at [tk]. A video recording of all hearings can be obtained through the DC Council video archive at <http://dccouncil.us/video-archive/>.



## B. DC DEPARTMENT OF HUMAN RESOURCES (BE0)

### 1. AGENCY MISSION AND OVERVIEW

The mission of the D.C. Department of Human Resources (“DCHR”) is to strengthen individual and organizational performance and enable the District government to attract, develop, and retain a highly qualified, diverse workforce.

DCHR offers executive management to District government officials and agencies by providing personnel-related services to help each agency meet daily mission mandates. Specific services provided include position classification and recruitment services, the interpretation of personnel-related policy, as well as oversight control (such as the adherence to regulatory requirements) for effective recruitment and staffing, strategic and financial restructuring through realignment assistance, and resource management. In addition, the agency provides District government employees with a variety of services, including employee benefits and compensation guidance, performance management, compliance, audit assessments, legal guidance on personnel matters, and learning and development.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local Fund	\$11,827,268	\$10,518,875	\$11,126,772	\$368,045	\$11,494,817	9.28%
Operating Intra-District Funds	\$7,730,413	\$7,346,834	\$7,993,718	\$0	\$7,993,718	8.80%
Special Purpose Funds ('O'type)	\$448,232	\$593,214	\$749,845	\$0	\$749,845	26.40%
<b>Gross Funds</b>	<b>\$20,005,913</b>	<b>\$18,458,922</b>	<b>\$19,870,336</b>	<b>\$368,045</b>	<b>\$20,238,381</b>	<b>9.64%</b>

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	102.3	100.0	114.0	100.00	114.00	3.00
Special Purpose Funds ('O'type)	4.8	39.6	42.0	39.60	42.00	0.00
Operating Intra-District Funds	64.2	5.8	7.8	5.80	7.80	0.00
<b>Total</b>	<b>171.3</b>	<b>145.4</b>	<b>163.8</b>	<b>145.40</b>	<b>163.80</b>	<b>3.00</b>

## Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)

Activity	FY 2020 Actuals	FY 2021 Approved	Mayor's FY 2022 Proposed	Committee Variance	Committee's FY 2022 Recommendation	Committee Percent Change
<b>Department of Human Resources</b>						
<b>1000 - AGENCY MANAGEMENT</b>						
1010 - PERSONNEL	\$4,087,019	\$4,351,196	\$4,697,376	\$150,000	\$4,847,376	11.40%
1030 - PROPERTY MANAGEMENT	\$2,836	\$5,258	\$5,258	\$0	\$5,258	0.00%
1080 - COMMUNICATIONS	\$214,734	\$240,279	\$255,976	\$0	\$255,976	6.53%
1085 - CUSTOMER SERVICE	\$456,637	\$474,647	\$439,970	\$0	\$439,970	(7.31%)
<b>TOTAL PROGRAM FUNDS</b>	<b>\$4,761,226</b>	<b>\$5,071,380</b>	<b>\$5,398,580</b>	<b>\$150,000</b>	<b>\$5,548,580</b>	<b>9.41%</b>
<b>1300 - POLICY AND PROGRAM DEVELOPMENT</b>						
1330 - COMPENSATION	\$0	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>#DIV/0!</b>
<b>2100 - GENERAL COUNSEL</b>						
2120 - LEGAL	\$1,025,053	\$1,516,989	\$1,428,942	\$0	\$1,428,942	(5.80%)
<b>TOTAL PROGRAM FUNDS</b>	<b>\$1,025,053</b>	<b>\$1,516,989</b>	<b>\$1,428,942</b>	<b>\$0</b>	<b>\$1,428,942</b>	<b>(5.80%)</b>
<b>2200 - BENEFITS AND RETIREMENT SERVICES</b>						
2210 - BENEFITS OPERATION UNIT	\$2,649,731	\$2,738,822	\$2,632,164	\$0	\$2,632,164	(3.89%)
2220 - POLICE AND FIRE RETIREMENT RELI	\$481,419	\$489,956	\$649,595	\$0	\$649,595	32.58%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$3,131,151</b>	<b>\$3,228,779</b>	<b>\$3,281,759</b>	<b>\$0</b>	<b>\$3,281,759</b>	<b>1.64%</b>
<b>2700 - HR SOLUTIONS</b>						
2710 - RECRUITING AND STAFFING	\$2,610,854	\$2,338,176	\$2,174,207	\$141,110	\$2,315,317	(0.98%)
2720 - CLASSIFICATION	\$943,073	\$820,352	\$698,394	\$0	\$698,394	(14.87%)
2730 - INFORMATION TECHNOLOGY	\$981,826	\$1,183,086	\$1,154,625	\$0	\$1,154,625	(2.41%)
2740 - ANALYTICS	\$398,592	\$383,417	\$432,927	\$0	\$432,927	12.91%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$4,934,344</b>	<b>\$4,725,031</b>	<b>\$4,460,153</b>	<b>\$141,110</b>	<b>\$4,601,263</b>	<b>(2.62%)</b>
<b>3000 - LEARNING AND DEVELOPMENT</b>						
3100 - TRAINING AND DEVELOPMENT	\$2,096,702	\$1,797,341	\$1,784,087	\$76,935	\$1,861,022	3.54%
3200 - CAPITAL CITY FELLOWS	\$732,795	\$200,793	\$197,702	\$0	\$197,702	(1.54%)
3300 - SPECIAL PROGRAMS	\$344,196	\$0	\$795,376	\$0	\$795,376	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$3,173,693</b>	<b>\$1,998,134</b>	<b>\$2,777,165</b>	<b>\$76,935</b>	<b>\$2,854,100</b>	<b>42.84%</b>
<b>4300 - STRATEGIC HUMAN CAPITAL</b>						
4310 - PERFORMANCE MEASUREMENT	\$397,990	\$503,177	\$522,500	\$0	\$522,500	3.84%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$397,990</b>	<b>\$503,177</b>	<b>\$522,500</b>	<b>\$0</b>	<b>\$522,500</b>	<b>3.84%</b>
<b>4500 - POLICY AND COMPLIANCE</b>						
4510 - COMPLIANCE	\$1,378,709	\$411,875	\$1,282,093	\$0	\$1,282,093	211.28%
4520 - POLICY	\$1,049,636	\$1,003,557	\$719,144	\$0	\$719,144	(28.34%)
4530 - COMPENSATION	\$154,110	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$2,582,455</b>	<b>\$1,415,433</b>	<b>\$2,001,237</b>	<b>\$0</b>	<b>\$2,001,237</b>	<b>41.39%</b>

### Committee Analysis and Recommendations

#### a. Budget Recommendations

##### *1. Enhance budget by \$150,000 for study of DC government employee residency*

The Committee recommends funding a study of the residency patterns and choices of District government employees and applicants. The Committee has put together a BSA subtitle requiring that DCHR put together a comprehensive analysis about current patterns related to District government employees' jurisdictions of residence; barriers to higher rates of District residency; reasons for District residency; effectiveness of current residency-related policies; and factors or policies that, if changed, could increase the rates of District residency for District government employees. It would cover the workforce as a whole with particular attention to police officers and firefighters. It would consist of three

components: a data analysis, a survey or focus groups of employees, and interviews with agency hiring directors. Please see additional discussion in Chapter IV.B.10.

***2. Enhance budget by restoring eliminated recruiting and training positions (\$218,000 and 3 FTEs)***

The Mayor’s budget proposal for DCHR eliminates 12 positions, which the Committee believes is too much for the agency to absorb. The committee would like to see DCHR do even more work in the areas of recruiting District residents to government employment and helping current and future employees on career paths, including establishing apprenticeship programs. Therefore, the Committee recommends restoring at least three FTEs, two in the Recruiting activity and 1 in the Training and Development activity; the Committee has identified \$218,000 for three positions.

**b. Policy Recommendations**

***1. Continue efforts to increase DC resident hiring***

The Committee’s top recommendation for DCHR continues to be boosting efforts to increase the portion of DC government employees who live in the District. This year, the Committee’s recommendations focus on increasing the hiring of current District residents into government employment.

In FY2020, for DC government overall, 43 percent of employees lived in the city. This percentage is similar to past years. However, there was improvement in the portion of *new hires* who are DC residents, rising to 55 percent compared with 51 percent in FY2019. This is a marked one-year improvement. Much of this success is due to the exceptional 99 percent DC resident hire rate for 300 contact tracer positions. According to the agency director’s testimony at the performance oversight hearing, this was achieved by focusing on DC residents in recruitment and conducting very broad outreach, including to universities and nursing schools as well as word of mouth. The director stated that “it taught us that the skill sets are there when we really reach out.”

On an individual agency-level basis, there is wide variety in the portion of new hires who are DC residents. For example, the Office of the Chief Technology Officer (OCTO) had a rate of 67 percent and Department of Public Works had 84 percent. On the low end, the Department of Corrections had a rate of 6 percent, Office of Contracting and Procurement was at 16 percent, and the Office of the Chief Financial Officer was at 17 percent.<sup>1</sup>

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<sup>1</sup> DCHR Performance Oversight Responses, Attachment to Q 53, and email to Committee staff, Feb. 12, 2021.

**a. Craft a strategic plan and set ambitious targets**

In order to be truly successful, there must be a concerted effort to recruit and hire DC residents. If DC residents truly don't have certain skill sets, then training programs should be established; these could be for incumbent workers who are DC residents or potential employees.

DCHR should craft a strategic plan to transform recruiting and hiring, agency by agency, to vastly increase the portion of new hires who are DC residents. There should be agency-level goals, such as a 10-percentage point increase each year, to gradually but significantly increase DC resident hiring rates.

Further, DCHR should incentivize agency hiring directors and agency directors to meet these goals, perhaps by creating a friendly competition or lauding them in public ways. DCHR should also give special attention to agencies that are failing to meet targets.

Furthermore, DCHR should establish guidelines to push agencies to meet goals, such as requiring that all entry-level jobs be filled with DC residents. DCHR should provide technical assistance to agencies on how to recruit more DC residents, and they should ensure they are using every tool in the toolbox, including marketing campaigns, working with DOES to access their database containing tens of thousands of job candidates, using social media, working with community leaders to spread the word, and reaching out to schools at the high school and post-secondary levels.

**b. Analyze job needs, establish training, and work with DOES to find candidates**

DCHR should analyze current application pools to identify jobs in need of more DC resident applicants. Like with contact tracing, it should conduct broad outreach to increase those pools. And, if the pools still do not provide qualified candidates, DCHR should work with DOES to establish training programs—perhaps apprenticeships—to create pipelines of newly qualified candidates.

DCHR should also analyze which jobs are held by high numbers of retirement-eligible employees, in order to plan ahead of time for those retirements and create a pipeline of DC residents into the jobs. DCHR has a “workforce planning dashboard” that compiles information including retirement-eligible employees. The top 5 jobs held by retirement eligible employees now are motor vehicle operator, bus attendant, correctional officer, staff assistant, and program analyst. DCHR should begin to plan to fill each of these jobs with District residents through training, apprenticeships, targeted recruitment, and other means.

Finally, DCHR should also work with DOES to have a dedicated staff person from DOES' Office of Talent and Client Services help find qualified candidates from DOES' virtual one-stop (i.e. job candidate database) for referral to open DC government jobs. Additionally, DCHR should work with DOES to provide information at the American Jobs

Centers and to DOES training providers about how to apply for District jobs and current openings.

**c. Continue implementation of Pathways to District Government Careers Act**

Many of the steps recommended above will be supported directly by requirements under the Pathways to District Government Careers Act (“Pathways Act,” Law 22-211). Passed and funded in 2019, Pathways Act aims to increase the hiring of District residents into District government employment. It has three main parts: first, to require that graduates of DC high schools receive priority consideration for entry-level jobs (resident District graduates); second, the creation of apprenticeships in 5 occupations within 2 years; and third, the creation of partnerships between DCHR and DC high schools to prepare students for future District employment. DCHR is responsible for implementing most provisions of this law. While implementation is underway, it has not been fully implemented. DCHR must achieve full implementation no later than the start of FY2022.

*i. Entry level/Resident District graduates*

The law requires that District graduates be given first and exclusive consideration for all entry level jobs in subordinate agencies; only if an agency is unable to fill a post with a qualified resident District graduate may agencies look to hire non-resident District graduates. In 2020, DCHR did a “soft launch” pilot with 6 agencies to better understand their recruitment and what their entry-level jobs are. This year, four agencies onboarded 35 new employees, according to the director’s performance hearing testimony, and they plan to hire more this year. DCHR has also completed the necessary changes to the IT system in order to identify resident District graduates, and it issued [guidance](#) on the program.

In the coming year, DCHR should expand the program to many more agencies, if not all, and ensure that agencies are following the requirements. DCHR should also complete the other required elements: a report detailing hiring of resident District graduates at each agency, updating performance plans to incorporate targets for hiring resident District graduates, and conducting annual audits.

*ii. Apprenticeships*

Under the Pathways Act, DCHR in partnership with DOES must establish five apprenticeship programs, including one in information technology and one in healthcare. DCHR has received approval for four programs so far, in information technology (2 programs), medical billing, and human resources. Hiring is underway, with more planned as the pandemic ebbs; the Committee looks forward to seeing this come to fruition. DCHR and DOES are also required to submit annual reports by December 1 of each year to the Council. The Committee looks forward to fulsome implementation in the coming year.

*iii. HS partnerships*

The third component of the Pathways Act requires DCHR to establish partnerships with District high schools to help with recruitment. DCHR has conducted several meetings and events such as career fairs with DCPS and with individual high schools. The Committee would like to see more concrete outcomes, such as a formalized list of partner high schools, more internship opportunities for students, and direct pipelines to entry-level jobs for graduating seniors.

**2. *Implement BSA subtitle to fully resolve in FY2022 disability insurance premium overpayments, including notifying affected participants and making necessary refunds.***

DCHR has determined that some employees have been over- or under-charged premiums for both short-term and long-term disability insurance over a period of years. This insurance is an optional program that DC government employees may purchase as part of their employee benefits package. DCHR's 2021 performance oversight responses state that DCHR originally became aware of the problem in July 2018. The cause was an incorrect formula in PeopleSoft, the personnel IT system.

The Committee has requested information on this problem since Fall 2018, when it learned of the problem. The Committee has held multiple meetings with DCHR, sent written requests for information, and asked for details at the 2021 performance oversight hearing. Unfortunately, DCHR has not been able to complete its analysis of the situation to determine how many people are affected, identify who is affected, or quantify how much money is owed to employees (past and current); nor has the agency notified any employees of the erroneous premiums they were charged or reimbursed any employees for the overpayments. At the budget hearing, the director reported that discussions among the parties' lawyers are ongoing and resolution is expected sooner than the end of FY 2022. She also stated that an initial estimate is that District workers could be owed \$9.5 million for the period 2007-2018.

The Committee is recommending a BSA subtitle to require DCHR to resolve this issue by the end of fiscal year 2022 (see Chapter IV.B.10). DCHR must notify any and all affected employees (past or current), and it must reimburse any employees who overpaid their premiums. DCHR should make these payments regardless of whether they have been able to reach an agreement with The Standard to recoup the overpaid monies. The fault of this problem lies with District government, not employees, and we owe it to them to reimburse them in full with no further delay.

### ***3. Implement the Medical Marijuana legislation***

Last year, the Council passed into law the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020. A portion of the law is subject to funding, but the portions affecting DCHR will go into effect upon completion of the Congressional review period. The law was effective on April 27, 2021.

The law establishes employment protections for medical marijuana patients. Their status as a patient and any positive test for marijuana components may not be used as a basis for an adverse employment action. That means qualified employees may not be terminated or disciplined for being patients or failing a drug test, as long as they were not impaired or used marijuana at work or during work hours.

One category of workers, safety-sensitive employees, required special consideration because of the nature of their jobs. District workers in safety sensitive positions have responsibilities that include, for example, operating heavy machinery and equipment. The law strikes a balance between workers' medical needs and the safety and well-being of the workers and their coworkers, any persons they supervise, and the public at large. The law does not provide employment protections to individuals in safety-sensitive jobs, but the law does provide alternative protections to these workers. First, the law amends the definition of "safety sensitive" to refine the definition, more closely align with its intent, and preclude mis-designations. Second, the law provides several new protections including a two-tier appeal process of a safety-sensitive designation, first to an employee's personnel authority and then to the Office of Employee Appeals; a right to notification of an employee's job designation as safety-sensitive, a change in the designation, and employees' rights under the law; and a written justification of the reasons for the designation, upon request.

Additionally, all employees will have a right to reasonable accommodation of their use of medical marijuana, which might include transfer to a non-safety sensitive position, a schedule change, or other solution. However, an accommodation is not guaranteed if there is no reasonable accommodation to be found.

DCHR, as the personnel authority of most subordinate agencies and many independent agencies that have entered into MOUs with DCHR, is responsible for much of the implementation of the law. This will include the notification requirements, processes for appeals of safety-sensitive designations at the personnel authority level, and guidance regarding reasonable accommodations. The Committee expects that DCHR will also update its suitability regulations to reflect the provisions of the law.

DCHR should complete this work within one year of the effective date in general, but some provisions require faster action. For instance, the law requires agencies to notify incumbent employees of their rights under the law within 30 calendar days of the effective date of the law. DCHR should work with agencies to ensure this is completed on time.

#### ***4. Resolve tax withholding error this year, including reach an agreement with IRS***

In 2017, DCHR identified a problem regarding tax withholding that went back many years. Some employees overpaid FICA (Social Security) and Medicare taxes, while others were under-withheld.

DCHR has been working to identify affected individuals, rectify the problem, and come to an agreement with the IRS regarding any repayments or penalties the District might owe. Director Gibson testified at the 2020 performance oversight hearing that while there is a draft agreement, tax season and the pandemic interrupted their work. DCHR also reported that they are “aware of 2,116 active and inactive employees with FICDA errors, 223 employees overpaid FICA, with the remaining underpaid.”<sup>2</sup> DCHR has contacted overpaid employees to receive their consent for a refund, and 67 have consented.

DCHR should work to resolve this issue by the end of FY2021. First, it should finalize an agreement with the IRS and pay any owed penalties. Second, DCHR must also take extra steps to make whole affected employees by individually contacting all overpaid employees to obtain their consent for a refund and issuing such refunds. Finally, DCHR should apprise the Committee of progress and resolution as it is reached.

#### ***5. Analyze and improve time-to-fill hiring processes to meet stated goal***

Each year, DC government brings on approximately 7,000 new employees. The process for hiring is set by DCHR for most subordinate agencies. DCHR and agencies each play a role in hiring; DCHR makes sure the processes are followed and that vacancy announcements are accurate. DCHR also issues approvals at various stages of the hiring process.

DCHR’s goal is to reduce the “time-to-fill,” or the time to fill a vacancy from the job posting to acceptance of an offer, to 60 days in FY2021.<sup>3</sup> DCHR should analyze the current process to identify steps to eliminate or streamline in order to achieve its goal. Despite having fewer new hires due to a hiring freeze instituted as a cost-saving measure during the pandemic (there were 6,300 new employees in FY20 compared with 7,000 in FY19), the time to fill increased last year: time to fill was 87 days in FY2020 and 75 days in FY2019.

### **3. FY 2022-2027 CAPITAL BUDGET**

DCHR has no capital budget for FY 2022-2027.

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<sup>2</sup> DCHR email to Committee, Feb. 23, 3021.

<sup>3</sup> Department of Human Resources, “FY2021 Performance Plan,” p. 1, available at <https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/DCHR21.pdf>.



4. SUMMARY OF COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2022 Operating Budget Recommendations

Summary of Budget Changes for DCHR (BE0)						
Program	Activity	CSG	Comments	Frequency	FY2021 recommendation	FY2022 recommendation
1000 Agency Management	1010 Personnel	40 Other Services	To fund a contract for a study on DC government employees' residency	One-time		\$150,000
2700	2710		Restore Positions 87396-HR Spec (Recruitment/Placement) and 87400-Customer Service Communication Spec	Recurring		116,524
2700	2710	11	Fringe	Recurring		24,586
3000	3100		Restore position 91284-Program Specialist (Career Pathways)			63,530
3000	3100	11	Fringe	Recurring		13,405

b. Policy Recommendations

1. Continue efforts to increase DC resident hiring
  - a. Craft a strategic plan and set ambitious targets
  - b. Analyze job needs, establish training, and work with DOES to find candidates
  - c. Continue implementation of Pathways to District Government Careers Act
2. Implement BSA subtitle to fully resolve in FY2022 disability insurance premium overpayments, including notifying affected participants and making necessary refunds.
3. Implement the Medical Marijuana legislation
4. Resolve tax withholding error this year, including reach an agreement with IRS
5. Analyze and improve time-to-fill hiring processes to meet stated goal

## C. DEPARTMENT OF EMPLOYMENT SERVICES (CF0)

### 1. AGENCY MISSION AND OVERVIEW

The Department of Employment Services (“DOES”) has a mission to advance the welfare of job seekers and wage earners by improving their working conditions, by creating opportunities for employment, by helping employers find workers, and by tracking changes in employment and other national economic measurements impacting the District of Columbia.

DOES also provides tools for the District of Columbia workforce to become more competitive using tailored approaches to ensure that workers and employers are successfully paired.

The agency implements these objectives through seven divisions: 1) Agency Management, which provides administrative support and the required tools to achieve operational programmatic results; 2) Unemployment Insurance, which provides basic income replacement to workers who lose work through no fault of their own; 3) Labor Standards, which enforces wage and hour laws and oversees workers’ compensation for the District’s private sector workforce; 4) Workforce Development, which provides employment-related services for unemployed or underemployed residents so that they can achieve economic security and compete in the global economy; 5) State Initiatives, which includes two locally-funded signature programs that provide employment services such as training, subsidized work experiences, and supportive services to underserved adults who face multiple barriers to employment; 6) Office of Paid Family Leave, which will implement the Universal Paid Leave Act to provide wage replacement benefits to individuals in need of leave from work due to medical or caregiving needs of one’s family or self; 7) Education and Workforce Innovation Bureau which provides for the development and oversight of DOES strategic priorities and key performance indicators, data management, training and professional development, employer services and youth programming; and 8) Agency Financial Operations, which provides accounting and budget services to, and on behalf of, District agencies.

## 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
LOCAL FUND	\$55,791,421	\$56,000,942	\$54,964,322	\$14,924,756	\$69,889,078	24.80%
FEDERAL PAYMENTS	\$115,378	\$0	\$65,435,524	(\$9,931,360)	\$55,504,164	!
FEDERAL GRANT FUND	\$32,523,715	\$42,083,597	\$44,005,375	\$0	\$44,005,375	4.57%
PRIVATE GRANT FUND	\$2,369,523	\$260,005	\$928,007	\$0	\$928,007	256.92%
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)	\$41,300,687	\$61,688,712	\$70,639,881	\$0	\$70,639,881	14.51%
ENTERPRISE AND OTHER FUNDS	\$10,914,743	\$0	\$0	(\$750,000)	(\$750,000)	
OPERATING INTRA-DISTRICT FUNDS	\$2,886,610	\$1,573,947	\$1,535,120	\$0	\$1,535,120	(2.47%)
<b>TOTAL GROSS FUNDS</b>	<b>\$145,902,076</b>	<b>\$161,607,204</b>	<b>\$237,508,229</b>	<b>\$4,243,396</b>	<b>\$241,751,625</b>	<b>49.59%</b>

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
LOCAL FUND		248.20	230.44	7.00	237.44	(4.34%)
FEDERAL PAYMENTS		0.00	0.00	(1.00)	(1.00)	#DIV/0!
FEDERAL GRANT FUND		229.86	229.92	0.00	229.92	0.03%
PRIVATE GRANT FUND		0.00	0.00	0.00	0.00	!
SPECIAL PURPOSE REVENUE FUNDS (O'TYPE)		329.49	353.19	0.00	353.19	7.19%
ENTERPRISE AND OTHER FUNDS		0.00	0.00	0.00	0.00	
OPERATING INTRA-DISTRICT FUNDS		6.20	8.40	0.00	8.40	35.48%
<b>TOTAL FTE</b>		<b>813.75</b>	<b>821.95</b>	<b>6.00</b>	<b>827.95</b>	<b>1.75%</b>

**Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)**

Activity	FY 2020 Actuals	FY 2021 Approved	Mayor's FY 2022 Proposed	Committee Variance	Committee's FY 2022 Recommendation	Committee Percent Change
<b>1000 - AGENCY MANAGEMENT</b>						
1010 - PERSONNEL	\$147,365	\$757,641	\$905,551	\$0	\$905,551	19.52%
1015 - TRAINING AND EMPLOYEE DEVELOP	\$449,512	\$581,722	\$0	\$0	\$0	(100.00%)
1017 - LABOR MANAGEMENT PARTNERSHI	\$0	\$0	\$0	\$0	\$0	#DIV/0!
1020 - CONTRACTING AND PROCUREMENT	\$184,839	\$136,639	\$209,170	\$0	\$209,170	53.08%
1030 - PROPERTY MANAGEMENT	\$517,653	\$674,101	\$791,269	\$0	\$791,269	17.38%
1040 - INFORMATION TECHNOLOGY	\$3,594,896	\$3,509,078	\$3,903,294	\$0	\$3,903,294	11.23%
1050 - FINANCIAL MANAGEMENT	\$0	\$0	\$0	\$0	\$0	#DIV/0!
1060 - LEGAL	\$196,715	\$634,065	\$568,148	\$0	\$568,148	(10.40%)
1070 - FLEET MANAGEMENT	\$582,757	\$658,203	\$626,048	\$0	\$626,048	(4.89%)
1080 - COMMUNICATIONS	\$660,080	\$588,309	\$577,903	\$0	\$577,903	(1.77%)
1085 - CUSTOMER SERVICE	\$343,502	\$446,563	\$0	\$0	\$0	(100.00%)
1086 - CALL CENTER	\$70,589	\$110,500	\$0	\$0	\$0	(100.00%)
1088 - CUSTOMER EXPERIENCE	\$0	\$0	\$491,036	\$0	\$491,036	#DIV/0!
1090 - PERFORMANCE MANAGEMENT	\$2,578,048	\$3,117,745	\$3,482,865	\$0	\$3,482,865	11.71%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$9,325,956</b>	<b>\$11,214,565</b>	<b>\$11,555,284</b>	<b>\$0</b>	<b>\$11,555,284</b>	<b>3.04%</b>
<b>100F - AGENCY FINANCIAL OPERATIONS</b>						
110F - BUDGET OPERATIONS	\$1,966,473	\$2,034,373	\$2,162,336	\$0	\$2,162,336	6.29%
120F - ACCOUNTING OPERATIONS	\$1,412,276	\$1,804,885	\$1,745,708	\$0	\$1,745,708	(3.28%)
<b>TOTAL PROGRAM FUNDS</b>	<b>\$3,378,748</b>	<b>\$3,839,258</b>	<b>\$3,908,044</b>	<b>\$0</b>	<b>\$3,908,044</b>	<b>1.79%</b>
<b>2000 - UNEMPLOYMENT INSURANCE</b>						
2100 - TAX COLLECTIONS	\$9,674,709	\$8,860,885	\$8,103,991	\$0	\$8,103,991	(8.54%)
2200 - BENEFITS	\$16,717,578	\$14,570,006	\$16,860,327	\$15,540,000	\$32,400,327	122.38%
2400 - BENEFIT PAYMENT CONTROL UNIT	\$1,347,083	\$1,578,714	\$1,440,165	\$0	\$1,440,165	(8.78%)
2500 - COMPLIANCE AND INDEPENDENT N	\$2,101,007	\$2,376,644	\$2,528,584	\$0	\$2,528,584	6.39%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$29,840,377</b>	<b>\$27,386,249</b>	<b>\$28,933,067</b>	<b>\$15,540,000</b>	<b>\$44,473,067</b>	<b>62.39%</b>
<b>3000 - LABOR STANDARDS</b>						
3200 - OFFICE OF WAGE HOUR	\$3,557,808	\$4,751,618	\$4,706,368	(\$982,492)	\$3,723,876	(21.63%)
3300 - OFFICE OF OCCUPATIONAL SAFETY	\$525,458	\$807,270	\$776,662	\$0	\$776,662	(3.79%)
3400 - OFFICE OF WORKERS' COMPENSAT	\$9,447,341	\$14,049,862	\$13,222,392	\$0	\$13,222,392	(5.89%)
3500 - OAH: ADMINISTRATIVE HEARINGS I	\$2,908,742	\$4,526,804	\$4,242,862	\$0	\$4,242,862	(6.27%)
3600 - OAH: COMPENSATION REVIEW BO	\$1,554,973	\$1,963,984	\$1,952,164	\$0	\$1,952,164	(0.60%)
3700 - FIRST SOURCE	\$0	\$0	\$1,877,029	\$0	\$1,877,029	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$17,994,322</b>	<b>\$26,099,539</b>	<b>\$26,777,476</b>	<b>(\$982,492)</b>	<b>\$25,794,984</b>	<b>(1.17%)</b>
<b>4000 - WORKFORCE DEVELOPMENT</b>						
0000 -	\$0	\$0	\$0	\$0	\$0	#DIV/0!
4100 - SENIOR SERVICES	\$528,573	\$552,687	\$844,798	\$0	\$844,798	52.85%
4200 - PROGRAM PERFORMANCE MONIT	\$623,943	\$1,016,181	\$874,196	\$0	\$874,196	(13.97%)
4250 - LOCAL ADULT TRAINING	\$2,797,061	\$1,787,775	\$7,334,759	(\$6,242,674)	\$1,092,085	(38.91%)
4260 - INFRASTRUCTURE ACADEMY	\$3,157,542	\$3,307,847	\$9,517,583	\$0	\$9,517,583	187.73%
4300 - OFFICE OF APPRENTICESHIP INFO.	\$1,045,319	\$1,562,409	\$10,612,440	\$0	\$10,612,440	579.24%
4400 - TRANSITIONAL EMPLOYMENT	\$0	\$10,000	\$0	\$0	\$0	(100.00%)
4500 - EMPLOYER SERVICES	\$1,320,281	\$3,210,515	\$0	\$0	\$0	(100.00%)
4510 - FIRST SOURCE	\$1,270,965	\$1,419,068	\$0	\$0	\$0	(100.00%)
4530 - VETERAN AFFAIRS	\$602,440	\$619,914	\$651,934	\$0	\$651,934	5.17%
4600 - ONE-STOP OPERATIONS	\$8,763,336	\$10,273,710	\$13,341,969	\$0	\$13,341,969	29.87%
4700 - LABOR MARKET INFORMATION	\$929,232	\$1,147,305	\$0	\$0	\$0	(100.00%)
4810 - YEAR-ROUND YOUTH PROGRAM	\$5,527,035	\$7,601,845	\$4,421,927	\$2,839,197	\$7,261,124	(4.48%)
4820 - MARION BARRY SUMMER YOUTH E	\$20,454,269	\$16,857,127	\$23,681,048	(\$839,197)	\$22,841,851	35.50%
4830 - MARION BARRY YOUTH LEADERSHI	\$934,056	\$1,000,030	\$1,003,705	\$0	\$1,003,705	0.37%
4840 - WIOA YOUTH PROGRAM	\$0	\$0	\$3,944,563	\$0	\$3,944,563	#DIV/0!
4900 - STATE-WIDE ACTIVITIES	\$3,875,723	\$6,710,974	\$13,851,516	(\$6,593,686)	\$7,257,830	8.15%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$51,829,775</b>	<b>\$57,077,386</b>	<b>\$90,080,437</b>	<b>(\$10,836,360)</b>	<b>\$79,244,077</b>	<b>38.84%</b>
<b>5000 - STATE INITIATIVES</b>						
5100 - TRANSITIONAL EMPLOYMENT	\$9,030,587	\$9,389,115	\$39,510,699	\$605,000	\$40,115,699	327.26%
5200 - DC CAREER CONNECTIONS	\$3,294,398	\$3,498,073	\$3,242,823	\$0	\$3,242,823	(7.30%)
5300 - LEAP	\$1,023,030	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$13,348,015</b>	<b>\$12,887,188</b>	<b>\$42,753,522</b>	<b>\$605,000</b>	<b>\$43,358,522</b>	<b>236.45%</b>
<b>6000 - PAID FAMILY LEAVE</b>						
6100 - ADMINISTRATION	\$4,862,252	\$9,539,254	\$14,045,898	\$0	\$14,045,898	47.24%
6200 - BENEFITS	\$11,831,727	\$6,899,413	\$5,616,312	(\$750,000)	\$4,866,312	(29.47%)
6300 - TAX	\$3,305,187	\$3,871,319	\$4,014,092	\$0	\$4,014,092	3.69%
6400 - APPEALS & ADJUDICATION	\$45,910	\$939,806	\$1,975,799	\$0	\$1,975,799	110.23%
6500 - ENFORCEMENT	\$0	\$1,853,227	\$2,299,500	\$0	\$2,299,500	24.08%
6600 - COMPLIANCE	\$0	\$0	\$548,952	\$0	\$548,952	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$20,045,075</b>	<b>\$23,103,018</b>	<b>\$28,500,553</b>	<b>(\$750,000)</b>	<b>\$27,750,553</b>	<b>20.12%</b>
<b>7000 - EDUCATION AND WORKFORCE STRATEGY</b>						
7100 - TRAINING AND EMPLOYEE DEVELOP	\$0	\$0	\$570,348	\$0	\$570,348	#DIV/0!
7200 - TALENT AND CLIENT SERVICES	\$0	\$0	\$3,388,365	\$0	\$3,388,365	#DIV/0!
7300 - LABOR MARKET INFORMATION	\$0	\$0	\$1,041,132	\$0	\$1,041,132	#DIV/0!
7400 - POVERTY COMMISSION	\$0	\$0	\$0	\$667,248	\$667,248	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,999,845</b>	<b>\$667,248</b>	<b>\$5,667,093</b>	<b>#DIV/0!</b>
<b>9960 - YR END CLOSE</b>						
0000 -	\$0	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>#DIV/0!</b>
<b>COVID-19 - COVID-19 RELIEF FUND</b>						
0000 -	\$115,378	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$115,378</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>#DIV/0!</b>
<b>NA - NO PROGRAM</b>						
NA - NO PROGRAM INFORMATION	\$0	\$0	\$0	\$0	\$0	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>#DIV/0!</b>
<b>TOTAL AGENCY FUNDS</b>	<b>\$145,902,076</b>	<b>\$161,607,204</b>	<b>\$237,508,229</b>	<b>\$4,243,396</b>	<b>\$241,751,625</b>	<b>49.59%</b>

## Committee Analysis and Recommendations

### a. American Rescue Plan Act Funds

The Mayor's FY2022 proposed budget dedicates \$65 million of American Recovery Plan Act (ARPA) funds to the Department of Employment Services (DOES), and an additional \$113m in FY 2023 and 2024.<sup>4</sup> In FY2022, the Mayor has proposed to provide \$49 million for five workforce programs under the "Earn and Learn" initiative. The Earn and Learn model refers to simultaneously learning skills and competences relevant to an occupation while working and earning a wage, which in the District is a subminimum wage. The programs that will be a part of this initiative are Project Empowerment (\$30 million), Apprenticeships (\$9 million), Marion Barry Summer Youth Employment Program (MBSYEP) (\$6.5 million), Local Adult Training (\$5.5 million), and DC Infrastructure Academy (DCIA) (\$6 million).

The Committee agrees overall an "Earn and Learn" approach can be very beneficial to the thousands of DC residents seeking employment and income, yet in practice our current programs have had mixed records of helping residents earn living wages and build careers. More specifically, the Committee is concerned the proposal invests too heavily in temporary subsidized employment without investing enough in permanent employment and lasting development of long-term career prospects, including occupational credentialing in high-demand industries that need workers now. The Committee is also concerned about the ability of the agency to spend such a large amount of funding in such a short timeframe, including hiring dozens of new staff almost immediately, issuing many more grants than normal, and recruiting thousands of new participants. The agency's track record in massive scaling up of staff to meet the need in unemployment insurance as well as significant underspending of much smaller budgets in the past give the Committee pause. The These concerns stated, the Committee largely retains the proposed funding for Earn and Learn in FY2022, with a few exceptions that will shift funds to similar priorities but also build up new program models and invest in District's community college. The Committee makes the following policy and budget recommendations.

- 1. Policy recommendation: DOES should focus on recruitment and post-program unsubsidized employment performance for Project Empowerment as it grows threefold in FY2022.***

Project Empowerment is an existing program with a mixed record of success. Presently, Project Empowerment serves 700 residents with barriers to employment. The program provides a three-week job readiness training after which participants are placed at an employer host site for six months to gain work experience. A small number of participants are enrolled in occupational credential training programs in the community. Participants are paid \$10 per hour (two-thirds of DC's current \$15 minimum a subminimum wage) for a maximum of 30 hours per week. As a result, a participant's maximum earnings are \$7,200.

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<sup>4</sup> Note that nearly \$7 million was mistakenly loaded to the DOES budget but was intended for the WIC.

Using ARPA funds, the proposed FY2022 budget would increase Project Empowerment’s budget fourfold. The additional funds require Project Empowerment to triple its enrollment to nearly 2,000 people in FY2022 alone and extend the subsidized employment period from 6 months to 12 months for most participants.

The Committee recognizes the value of subsidized employment as a tool to prepare residents for employment, but it is not the only tool available. The Deputy Mayor for Education shared a study funded by the Rockefeller Foundation<sup>5</sup> on the evaluation of subsidized employment programs after the 2009 American Recovery and Reinvestment Act (ARRA). At that time Congress included funding for states to expand existing subsidized employment programs for Temporary Assistance for Needy Families (TANF) participants. While the models varied across states, the program collectively created more than 260,000 subsidized jobs. However, only one of the four states in the study saw increased earning for participants in subsidized employment programs. While 63% of employers created jobs specifically for the program participants, employers reported retaining only 37% of the participants after the subsidy period ended, and the most common reasons given for not retaining workers were poor attendance and other performance issues.

These results are quite similar to the District’s experience. Before the pandemic in FY2018 and FY2019, the permanent employment rate averaged 47% for residents who completed Project Empowerment.<sup>6</sup> This does not account for attrition during the program, including participants who do not complete the job readiness, do not enter subsidized employment, or do not complete subsidized employment. Given that our residents participate in Project Empowerment with the hope that the job readiness training and temporary subsidized work experience will lead to full-time employment to help support themselves and their family members, the employment and job retention rates must be pushed higher.

The Committee is concerned about the 53% of Project Empowerment completers who do not secure permanent unsubsidized employment. Further, the Committee is not confident that expanding Project Empowerment in its current form is the most strategic way to use \$30 million in ARPA funds to get residents to permanent work. Participants who complete the program should have better long-term career prospects than Project Empowerment has been able to deliver so far.

Finally, the Committee is very concerned about the ability of the agency to recruit so many individuals, as well as to immediately hire the dozens of new staff necessary to support the program, that the proposed \$40 million budget is justified and will be successful.

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<sup>5</sup> Anne Roder and Mark Elliott Economic Mobility Corporation. September 2013, [Stimulating Opportunity: An Evaluation of ARRA-Funded Subsidized Employment Program](https://www.rockefellerfoundation.org/wp-content/uploads/stimulating-opportunity-full-report.pdf), found at: <https://www.rockefellerfoundation.org/wp-content/uploads/stimulating-opportunity-full-report.pdf>.

<sup>6</sup> FY2021 DOES Performance Oversight Response Attachment Q12, available at: <https://dccouncil.us/labor-and-workforce-development-5/>

**2. Budget recommendation: Fund Jobs First DC Pilot Program to provide immediate job placement and retention assistance (\$1.2 million over 2 years)**

The Committee recommends a BSA subtitle to establish a Jobs First DC Pilot Program for two years to assist District residents with barriers to employment—such as a criminal record or experience of homelessness—with placement in a permanent job right away that pays at least \$15 an hour. To expand the breadth of job placement available in the District, the Committee recommends funding a grant program to assist residents with permanent job placement.

The Committee heard testimony at the FY2022 budget oversight hearing on the need for increased job placement assistance in the District. Jean-Michael Giraud, President and CEO Friendship Place, testified on Friendship Place's AimHire Job First model.

*AimHire has a proven record of efficiency and success working with individuals experiencing homelessness, who face challenges such as those targeted by the Transitional Employment program. Our employment specialists expedite soft-skills training and build relationships with employers to help our clients find jobs quickly— an average of 90 days (about 3 months) to employment.*

*We believe this model will be especially effective for the many skilled individuals who lost their jobs due to the pandemic, maximizing the number of individuals we can help regain jobs. This approach is solutions-driven, outcomes-oriented, and does not foster dependency by letting people fall to the most supportive layers of the system.*

*Job First focuses on the outcome: the job. Based upon our past hiring successes and DOES's FY19 per job cost, we believe we could have significant savings per person employed. At AimHire, we have a growth model that would allow us to expand capacity to as many as 1000 new clients.*

The Jobs First DC Pilot Program Establishment Act of 2021 will establish a program to provide residents with significant barriers to employment find and keep permanent employment. (See Chapter IV.B.V for more information.) The Committee recommends moving forward ARPA slated for FY2024 to fund the Jobs First Pilot Program Establishment Act of 2021, which will provide job placement assistance to 300 residents with barriers to employment. The fiscal impact is \$1.12 million, including \$500,000 in grants and \$105,000 in personnel costs per year for two years.

**3. Policy Recommendation: Expand employer custom-designed training at DCIA and utilize industry advisory boards**

The Committee recommends maintaining the ARPA funding enhancements dedicated to the DC Infrastructure Academy (DCIA). DOES should utilize the ARPA funding opportunity to expand employer custom designed training for residents in occupations that have jobs available today. Furthermore, the Committee encourages DOES

to leverage the employment agreements submitted by First Source contracts and design DCIA course offerings that correlate directly with jobs created.

The Committee strongly supports the occupational credential training programs offered at DCIA. In FY2021, the Committee recommended the DC Infrastructure Academy Employer Engagement Act of 2020. Now law, the Act established business-led industry advisory boards (IABs) to recommend course offerings at DCIA for jobs that are in demand and have opportunity for growth.

The Committee expects DOES to continue utilizing the DCIA Industry Advisory Committees mandated in the 2020 Budget Support Act to ensure the training offered matches the needs of employers. The Committee applauds the work of DOES to implement the IABs and has enthusiastically heard from participating employers regarding their satisfaction with the IABs. Specifically, Washington Gas reported hiring 100% of the participants enrolled in the DCIA training program custom-designed for Washington Gas. For Pepco, 100% of the graduates of the DCIA Quick Path to Energy program are hired by Pepco or contractor partners. Pepco guarantees employment for all graduates of the program, and the program will increase participant numbers in the future.

The DCIA Industry Advisory Committees are comprised of employers from the same industry that provide recommendations for the type of occupational training offered, the number of individuals needed for hire in the occupation, curriculum used, and feedback on the statement of work for grants or contracts at the Infrastructure Academy. The Quick Path to Energy training is an excellent example of listening and responding to business.

Given the business community's interest in working with DCIA, the Committee encourages DOES to expand its employer custom-designed training offerings at DCIA. The Committee suggests expanded training in commercial driver's license (CDL) and information technology (IT) jobs.

The Washington Metropolitan Area Transit Authority (WMATA) informed the Committee of a desperate need to hire Student Bus Operators. Steven Boney, Sr. Talent Acquisition Manager at WMATA and member of the District's Workforce Investment Council, shared that he needs to hire 66 student bus operators monthly. Calculating this need over 12 months results in 792 jobs available to District residents annually. DOES should customize training at DCIA to specifically address the prerequisite requirements for student bus operators and collaborate on methods to direct graduations into employment at WMATA.

Employer-customized training is a best practice hailed nationally. The WIOA regulations issued by the U.S. Department of Labor state that "For employers, customized employment allows an employer to examine its specific workforce needs and fulfill those needs with a well-matched employee. Customized employment services are included in the list of allowable vocational rehabilitation services in final §361.48(b)."



**4. Policy recommendation: Increase IT, CDL course offerings at DCIA**

DOES should invest in more training in computer occupations and commercial driver's licenses. DOES has an opportunity to connect the many District residents unemployed due to the coronavirus pandemic with skill training in new careers that have a high demand for workers.

Two growing industries are information technology and transportation of materials. The transition to virtual platforms for work and life activities has further increased the demand for workers in the IT field, which was already experiencing shortages before the pandemic. Also, due to the health emergency, the stay-at-home orders increased resident reliance on delivery services, which increased demand for commercial drivers. Fortunately for residents looking to reskill and change careers, both industries are experiencing worker shortages, and finding a job is truly an applicant's market.

Both computer occupations and CDL are training certificates offered by the DC Infrastructure Academy. With an influx of ARPA funds, DCIA can afford to expand in IT and CDL.

**5. Policy recommendation: Couple occupational credential training at DCIA with on-the-job work experience in Project Empowerment to ensure residents are trained, readied, and prepared for long-term permanent employment.**

The Committee recommends that DOES couple occupational training at DCIA or elsewhere with work experience through Project Empowerment.

The Committee recommends DOES consider an alternative model that couples the work experience provided through Project Empowerment with occupational credentialing provided through DCIA to bolster the success of program participants in securing long-term sustainable employment on a career pathway. DOES could provide the subsidized employment after completion of an occupational credential training, such as those offered at DCIA. Providing subsidized employment that is tied to industry skill development allows for participants to practice the skills they learned while also allowing host site employers to hire residents probationally and at no cost. This suggestion is similar to models utilized by the healthcare and education sectors and explicitly used by apprenticeship programs.

**6. Budget Recommendation: Shift the Rapid Reskilling ARPA funds to enhance nursing and IT credential-based training at UDC**

The Committee recommends shifting the Rapid Reskilling funds proposed by the Mayor in FY2022 budget to directly support credential-based training at UDC and community training providers. The Committee's approach builds the capacity of our city's only public higher education institution to be a great asset to our high-demand industries by creating a needed pipeline of well-trained workers and centers the WIC in the District's workforce development strategy. The Rapid Reskilling program is designed to assist

residents with reskilling opportunities at community training providers. However, DOES already has millions of federal funds for occupational training, and it has a poor track record utilizing the funds. The WIOA Title I Adult and Dislocated Worker Programs provide annual grant funds with a three-year timeframe to exhaust spending. The District, as of December 31, 2020, had nearly \$15.3 million in *unspent* past year funding (approximately \$7 million in WIOA Title I Adult funds and \$8.3 million in WIOA Title II Dislocated Worker funds).<sup>7</sup> The District has been allocated *another* \$14.8 million in WIOA Title I Adult and Dislocated Worker funds for program year 2021<sup>8</sup>. That means that the District already has approximately \$30 million in federal grant funding available for reskilling opportunities.

The Committee recommends DOES evaluate the barriers to exhausting the available federal WIOA funds and improve the spending of those dollars on training services for District residents before utilizing additional non-WIOA funds for similar purposes. The Committee recognizes that the participant documentation, reporting requirements, and U.S. Department of Labor-negotiated performance outcomes are intense. However, the documentation required is almost identical to criteria required for participation in TANF, SNAP, and publicly funded housing programs and similar to documentation required for a resident to secure a REAL ID Driver's License. The Committee also believes DOES will become a stronger and more data-driven agency by utilizing WIOA funds and meeting the associated federal reporting and performance requirements.

The Committee is recommending legislation to reskill and upskill residents in the fields of nursing and information technology by enhancing program offerings at UDC Community College (UDC-CC) and community training providers. These funds will provide necessary foundational support to scale up capacity and meet residents' needs in the long term. The Nurse Education Enhancement Establishment Act of 2021 and the IT Community Training and Advisory Board Act of 2021 will help strengthen the District's workforce offerings in the long term. They build the capacity of UDC-CC to provide occupational credential training courses targeted at high-demand sectors. Investing and scaling the UDC-CC will keep the District on track with neighboring jurisdictions and ensures District residents are readied and prepared for jobs available in the District. The Committee recommends shifting the Rapid Reskilling funds (\$5,942,674) to the Workforce Investment Council for these subtitles; see further discussion in Chapter II.L and Chapters IV.B.2 and IV.B.3..

### ***7. Policy recommendation: Approve and fund a Geriatric Caregiver Apprenticeship program***

The Committee is encouraged the Office of Apprenticeship proposes funding apprenticeships in non-traditional fields and recommends healthcare as the first program

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<sup>7</sup> FY2021 DOES Performance Oversight Response Attachment Q12, available at: <https://dccouncil.us/labor-and-workforce-development-5/>

<sup>8</sup> US Department of Labor, Employment and Training Administration, April 2021, TEGL 19-20 available at: [https://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=4427](https://wdr.doleta.gov/directives/corr_doc.cfm?docn=4427)

expansion to address. According to testimony received by the Long Term Care Coalition, the District is currently unable to meet the hiring needs of employers providing in home health care supports and assisted living facilities:

*Prior to COVID, it was estimated that the ratio of District residents needing Long Term Care Services and Supports to available caregivers was 3 to 1, a ratio that was predicted to worsen based upon current demographic trends. The Public Health Emergency (PHE) caused by COVID accelerated the growing shortage of direct care workers and has made it much harder for current employers to find and keep qualified workers. Based upon surveys conducted last year, over 50 percent of home health agency respondents stated they did not have enough Home Health Aides to staff all of their clients on every shifts.<sup>9</sup>*

If we are going to continue to encourage residents to age in place and consider the District a place for all ages and stages of life, then we need to provide the infrastructure, such as a home health care workforce, to support this objective. We don't have the luxury for long-term planning; many of our senior residents need this workforce now. Our residents cannot wait two or three years for the District to train Certified Nursing Assistants and Home Health Aides. The jobs are available today and training can be scaled immediately with reasonable investments. The Committee supports DOES approving and funding the Geriatric Care Giver Apprenticeship program developed by the Long-Term Care Coalition and encourages the Office of Apprenticeship to approach the direct healthcare worker shortage with innovative ideas that help place residents directly into jobs and on a career pathway.

#### **8. Policy Recommendation: Continue and expand digital literacy training**

The Committee was encouraged to see the inclusion of a \$597,192 digital literacy training grant for 1,000 Project Empowerment participants. Public witnesses at both the FY2021 DOES performance oversight hearing and FY2022 budget oversight hearing testified on the need for digital literacy. One public witness, Regina Welch, testified on her experience attending the Byte Back Computer Foundations class funded by DOES.

*My experience in Byte Back's Computer Foundation class was completely awesome. This is the same class that DOES has been supporting this year and should continue funding. Before my course, I never felt qualified for managerial positions because I wasn't tech savvy enough – I didn't have the technical qualifications needed to feel confident while applying. As soon as I started the course, I learned invaluable skills needed in any industry today: How to write my resume, how to attach my resume to emails and applications, how to research companies...the list goes on.*

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<sup>9</sup> Claudia Schlosberg, Workforce Investment Council FY2022 budget oversight hearing testimony available at: <https://www.dclongtermcare.org/wp-content/uploads/2021/01/COVID-19-Impact-on-HHAs-Survey-Results.pdf>; CNA Needs Assessment Survey, <https://www.dclongtermcare.org/wp-content/uploads/2021/01/CNA-Survey-12.21.2020-FINAL-.pdf>.

The coronavirus pandemic pushed work, school, and services to a virtual platform. Challenges with reliable internet access and digital literacy are consistently reported on the news, in public testimony and in professional journals. According to a TECH Edvocate blog post digital literacy is the most important lifelong learning tool for both children and adults:

*With the increased importance of technology in society, digital literacy is gaining recognition as the most valuable tool for lifelong learning. What does this mean? Essentially, as citizens of a global society, the influence of social media, technology, and online resources is massive. For children, the access to a home computer with internet increases their likelihood of college attendance exponentially. For adults, the ever evolving tech world can either help them succeed or hold them back.*

*Society has changed over the last 15 years. It has become increasingly important to continue education after entering the workforce. The influence of technology on business is the main reason for this new mandate. In early learning through adulthood, digital literacy is showing the most promise for success. The edtech industry has long-focused on the value of digital competency for children. It's time digital literacy was incorporated into adult education in the same way, but with a few adjustments.<sup>10</sup>*

DOES should continue to fund the much needed digital literacy course and consider expanding the course for more participants in additional DOES programs.

**9. Budget recommendation: Utilize a portion of outyear ARPA funds in FY2022 to support jobseekers and residents today (\$15,000,000).**

As noted above, the Committee's priority is to help residents hurt by the coronavirus pandemic now, not in three years. The benefits of returning DC workers to employment and earning income has a positive impact not only on themselves, but on their households. Children in the household, for example, will likely experience less trauma that impacts learning and social-emotional development and be more successful in school. If the ARPA funds slated for FY2022 are not fully spent, they can roll over into FY2023; however, funds not spent by FY2024 will be lost (the federal ARPA law requires funds to be spend by the end of FY2024).

Therefore, the Committee recommends shifting forward some proposed ARPA funds from FYs 2023 and 2024 to the FY2022 budget; this will allow us to use these funds in the next year, helping residents now and meeting the needs of jobseekers today.

The Coronavirus pandemic upended the District's economy and left more than 80,000 residents unemployed. District families faced distress both financially and

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<sup>10</sup> Matthew Lynch, TECH Edvocate, blog post, "Digital Literacy is the Most Important Lifelong Learning Tool," December 2017, available at: <https://www.thetechedvocate.org/digital-literacy-important-lifelong-learning-tool/>.

medically. Additionally, the racial inequities which have plagued the United States were exposed with the death of George Floyd. The District's eyes have been opened to the disproportionate suffering placed on residents of color. As of February 2021, Wards 4, 5, 7, and 8 experienced unemployment rates approaching or more than double digits.<sup>11</sup> Moreover, Ward 7 and Ward 8 unemployment rates are at 13.0 percent and 16.8 percent respectively. District residents need help immediately.

Therefore, the Committee recommends redirecting a portion of these funds to the following:

Fund a **Jobs First DC Pilot Program** for two years to assist District residents with barriers to employment—such as a criminal record or experience of homelessness—with placement in a permanent job right away that pays at least \$15 an hour. The Jobs First DC Pilot Program Establishment Act of 2021 will establish a program to provide residents with significant barriers to employment find and keep permanent employment. (See Chapter IV.B.V for more information.) The Committee recommends moving forward \$1.2 million in ARPA funds slated for FY2024 to fund the Jobs First Pilot Program Establishment Act of 2021 in both FY2022 and FY2023.

Provide **heroes pay** to the tens of thousands of District workers who risked their health and their lives by working during the pandemic. Most of these workers have not received any compensation for this sacrifice. The Committee has developed a BSA subtitle to create a grant program for employers to thank and reward their essential workers. The Committee has identified \$5 million in funds and hopes that other committees contribute to the program, as well. See chapters II.L and IV.B for further discussion.

Fund **high-demand industry training enhancements through the WIC** by funding the Committee's subtitles, the Nurse Education Enhancement Act of 2021 and the IT Community Training and Advisory Board Establishment Act of 2021. These will provide occupational training at the University of the District of Columbia and through community training providers in healthcare and IT occupations. They will also support the WIC as the strategic coordinator of the District's workforce development system. See chapters II.L and IV.B.2 and IV.B.3 for further discussion. The total three-year cost of both bills is \$11,973,264.

Enhance **eviction diversion coordination** as a supplement the Access to Justice program fund through the Office of Victim Services and Justice Grants by transferring \$1.5 million to the Judiciary committee. These funds would reduce eviction filings by coordinating access to dispute resolution resources, such as legal services, emergency financial assistance, mediation, and social services. See Chapter III for information on the inter-committee transfer with the Judiciary Committee.

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<sup>11</sup> Department of Employment Services, District of Columbia Labor Force, Employment, Unemployment and Unemployment Rate by Ward, available at: [https://does.dc.gov/sites/default/files/dc/sites/does/release\\_content/attachments/DC%20Ward%20Data%20Apr20-Mar20-Apr19.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/release_content/attachments/DC%20Ward%20Data%20Apr20-Mar20-Apr19.pdf).

***10. Budget recommendation: Fund grant program for workforce development for Wards 7 and 8 youth (\$2 million)***

The Committee accepts a transfer from the Business Committee of \$2 million in one-time ARPA funds to fund a grant at a non-profit organization that has or seeks to start up a workforce development program for youths in Ward 7 and 8 in computer science, construction, and the creative economy sectors.

**b. Local Budget Recommendations**

***1. Fund payments to unemployment compensation claimants who had to wait extraordinarily long for their first payment (\$15.5 million)***

The Committee recommends \$15 million for DOES to provide additional compensation to those claimants who were forced to wait for months for their claims to be approved, many who were left waiting through no fault of their own. The legislation requires the District identify the 10,000 claimants with the longest wait times between their initial application and their first payment. These claimants would then automatically receive \$1,500 one-time payments from the District. The payments would be on top of their unemployment compensation, and would be to compensate them for the financial and emotional toll of the dysfunction of the District's unemployment compensation system. This would cost in total \$15.5 million with administrative costs.

***2. Fund and implement the School Year Internship Program Amendment Act of 2021 (\$839,197 recurring) by shifting funds from the Summer Youth program***

The Committee is pleased to recommend legislation to establish the School Year Internship Program as a permanent program included in service offerings of DOES. In FY2021 the Committee recommended a one-year pilot program of a school year internship program for 250 youth not otherwise connected with internship offerings. The demand for participation far exceeded the funding budgeted for a pilot program: 884 youth applied to participate with little promotion and an extremely short application window. The Committee anxiously awaits the performance results for the pilot program. Additionally, an impressive number of youth testified at the DOES FY2021 performance and budget oversight hearings resulting in development of the pilot program. The same group returned to testify at the DOES FY2022 performance and budget oversight hearings to request making the program permanent, expanding it by an additional 100 slots, and to suggest cost savings recommendations.

Year-round youth programming remains in demand. Not only does youth employment provide income for at-risk residents, but the career exposure and real-world work experience helps develop interpersonal communication skills, develop positive adult role models, and offer connections for future career opportunities. Marcia Huff, Director of Youth Poverty Programs at The Young Women's Project, testified at the FY2022 DOES budget oversight hearing on the need for extending the School Year Internship Program:

*High school students not only need early work experiences for development and training, but they also need paid work to help their families. Many of the youth on our staff have financial responsibilities within their families. Many of the youth on our staff who will testify today will talk about the need to pay for school items, household bills (internet, rent, utilities) and life essentials such as food, clothing (including school uniforms), their cell phone, and toiletries. At a young age they feel the squeeze of their family's stretched budgets.*

The Committee supports providing the District's youth with career exposure and skill development and recommends funding the School Year Internship Program Amendment Act of 2021. It will establish the paid internship program piloted in FY2021 as a permanent offering to youth in the District. (See Chapter IV.B.4 for more information.) The fiscal impact follows:

School Year Internship Program (350 slots)						
		FY22	FY23	FY24	FY25	Total
Total PS (4 FTEs)		332,197	357,111	383,895	412,687	
NPS		10,000	10,175	10,353	10,534	
Intern wages		497,000	505,698	514,547	523,552	
		839,197	872,984	908,795	946,773	3,567,749

**3. Enhance budget by \$40,000 to create user-friendly UI informational videos**

The Committee recommends funding the creation of two informational videos about common pitfalls in the unemployment insurance application process. The Committee has put together a BSA subtitle requiring that DOES contract for or issue grants for videos that will explain the two most common causes of improper payments of UI benefits.<sup>12</sup> The pandemic demonstrated how confusing the rules are to follow, even for claimants who have past experience collecting UI. The first video will explain what the agency means by “benefit year earnings,” which are wages that the claimant receives if they are only partially unemployed. Often these earnings are reported improperly and can result in the claimant being charged with fraud. As claimants enter back into employment, the Committee believes this will be helpful. The second video is to explain the “work search” requirement which claimants must follow in order to continue to receive UI payments by documenting jobs they applied for. Please see additional discussion in Chapter IV.B.9.

<sup>12</sup> Unemployment Insurance Program Alternate Year State Quality Service Plan for FY2020, included as Attachment 113 to FY2020 DOES Performance Oversight Responses, available at: <https://dccouncil.us/labor-and-workforce-development-3/>

**4. Robustly implement the Ban on Non-Compete Agreements Amendment Act to ensure workers understand their rights (\$675,9710 over four years)**

The Committee recommends full funding of the Ban on Noncompete Agreements Amendment Act (B23-494). While it became law on March 16, 2021, it was passed subject to appropriations. The Committee is providing funding for this law; however, the Committee is also recommending a delay in the applicability (i.e. practical application/effectiveness of the law) while it considers changes to respond to business community concerns raised after final passage of the underlying law.

When it becomes fully effective, DOES must ensure that employers and workers know that the ban applies to virtually all workers in the District. The law ensures that workers can pursue work opportunities that better meet their needs: higher pay, predictable hours, and other work conditions. The law will also assure employers that they have the broadest access to qualified candidates possible, since the pool of qualified recruits is not artificially limited by competitors restricting their employees’ ability to pursue other job opportunities.

The fiscal impact follows:

**B23-494, Ban on Non Compete Amendment Act (April 1, 2022 start)**

<b>Item</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>Total</b>
Supervisory Program Analyst	\$59,670	\$121,428	\$123,553	\$125,716	\$430,368
Fringe	\$13,724	\$28,100	\$28,767	\$29,451	\$100,042
Equipment & NPS	\$1,500	\$3,000	\$3,000	\$3,000	\$10,500
Increase to OAH MOU	\$5,000	\$10,000	\$10,000	\$10,000	\$35,000
Public Relations Campaign	\$25,000	\$50,000	\$25,000	\$0	\$100,000
<b>Total</b>	<b>\$104,894</b>	<b>\$212,529</b>	<b>\$190,321</b>	<b>\$168,166</b>	<b>\$675,910</b>

**5. Fund B23-90, Commission on Poverty Establishment Amendment Act of 2020 (\$667,248 recurring)**

The Committee recommends full funding to establish a commission to evaluate and make recommendations on how to reduce poverty in the District. The law was passed by the Council in December 2020 and is effective as of May 16, 2021. The Commission will consist of 19 appointed members and 8 ex-officio members. The Commission will develop a comprehensive strategic plan for the reduction of poverty in the District and make annual updates to the plan. The commission will hold public hearings, listening sessions, and forums, make recommendations to the Council and Mayor, and overall serve to advance policies and initiatives to elevate the needs of people in poverty. The Committee



recommends that the funding be located at DOES and has created a new Activity code to track the funds in the future, Activity 7400 Poverty Commission.

**Funding for B23-90 Commission on Poverty Establishment Amendment Act of 2020**

	FY22	FY23	FY24	FY25	Total
Commission Staff (3 FTEs)	\$420,576	\$428,410	\$436,393	\$444,526	\$1,729,905
Consultant for Report Preparation	\$150,000	\$150,000	\$150,000	\$150,000	\$600,000
Travel Reimbursement for Appointed Members	\$1,710	\$1,710	\$1,710	\$1,710	\$6,840
Website Creation and Maintenance	\$25,000	\$25,000	\$25,000	\$25,000	\$100,000
Office Space, Furnishings, Supplies, Devices, and Software	\$59,962	\$43,212	\$43,212	\$43,212	\$189,598
Meeting, Listening Session, and Forum Expenses	\$10,000	\$10,000	\$10,000	\$10,000	\$40,000
Total	\$667,248	\$658,332	\$666,315	\$674,448	\$2,666,343

***6. Reduce Office of Wage Hour enforcement by \$1,087,000 as increased budget is not adequately justified***

Despite its role in protecting District workers from wage theft and other workplace harms, the Office of Wage Hour enforcement is not prioritized by the agency<sup>13</sup> and performance has been insufficient. Last year, the office saw a budget increase of approximately \$1.2 million due largely to a one-time project that is to be completed this year. The proposed budget for FY2022 remains significantly higher than what it has been historically; however, the increase is not supported by any programmatic plans, needs, or agency performance plans that would justify the increase. Complaints filed with the OWH are still glacially slow to be resolved, discouraging workers from using the agency’s administrative process and increasing the need for external resources where workers can go for assistance when they experience a violation of the law. These funds are better allocated to sources that can efficiently assist workers and help them resolve their issues.

The Committee has identified the following reductions totaling \$1,087,000:

- Eliminate the Wage-Hour Education Grant Program. The Committee created and funded a new grant program in 2019 requiring the agency to issue worker education grants every year; however, the funds (\$130,000) were never fully utilized by the agency, and when the grants were issued, the entities that received them were unsupported by OWH. The Committee believes these funds would be better directed to a new grant program it is creating in Partnership with the Judiciary Committee at the Office of the Attorney General, the Workplace Rights Grant Program. See Chapter III for more information on this inter-committee fund transfer.
- One full time equivalent role (\$103,000) out of five current vacancies in the OWH should also be eliminated since, with the incorporation of the First Source

<sup>13</sup> The agency did not identify any annual performance goals for the Office of Wage and Hour enforcement in the FY2021 or the FY2022 performance plans provided as part of the performance oversight process.

program under the umbrella of Labor Standards in FY2022, there should be greater efficiency in conducting investigations. OWH also received fewer complaints in FY2020 than in prior years, likely due to the pandemic, resulting in a smaller workload for remaining employees. The agency should prioritize filling the remaining vacancies.

- \$54,000 reduction from CSG 40 because these funds are not otherwise committed; however, the Committee leaves intact \$200,000 in order for OWH to execute its annual MOU with the Office of Administrative Hearings (OAH), which hears appeals of OWH cases. It also leaves \$70,000 in the budget for an audit on the Accrued Sick and Safe Leave Law.
- The agency expects to finish upgrading an online portal that will be used by employers to report tipped workers' wages under DC Code section § 32–1009.01(b), after which recurring maintenance costs are estimated to be \$165,000 per year, according to the fiscal impact statement. However, the agency has budgeted recurring funds for OWH contracts in the amount of \$1 million. Therefore, the remaining \$800,000 is unnecessary and can be put in part towards the new Workplace Rights Grants Program at OAG.

***7. Align FY2021 and FY2022 workforce development program budgets with past and planned spending***

The Committee recommends aligning the FY2021 and FY2022 budgets with past spending and spend plans. DOES has various programs with significant over budgeting and underspending in FY2021. There are three programs the Committee identified with significantly lower expenditures as of June 18, 2021, than budgeted, despite the year being nearly three-quarters over. The Committee recommends:

- Local Adult Training- Reduce \$100,000 in FY2021 local one time funds from CSG 50. This budget is \$539,73; expenditures as of June 18, 2021, are \$121,419, with \$233,288 encumbered and \$72,840 pre-encumbered, leaving a balance of \$112,452. To align the budget with planned spending and reduce CSG 50 by \$100,000.
- The FY2022 Local Adult Training budget is \$579,288 in local funds; however, spend plans indicate plans for only \$122,000. Local Adult Training- Reduce \$300,000 in FY2022 local recurring funds
- Transitional Employment Program- Reduce \$1.5 million in FY2021 local one-time funds from CSG 50. Transitional Employment CSG 50 has a \$4.9 million budget in local funds. It is important to note the Committee has recommended an expenditure of \$1 million with federal ARPA funds from FY2024 for a Jobs First grant, which will serve the same population as Transitional Employment yet employment will be permanent and pay will be 50% higher. Expenditures as of June 18, 2021, are \$1.488, with \$244,197 encumbered and \$10,000 pre-encumbered, leaving a balance of nearly \$2.9 million. The DOES Agency Fiscal Officer projects a \$1.8 million surplus due to programming impacted by the Coronavirus pandemic. Given the AFO's projections and the spending

level, the Committee recommends reducing Transitional Employment CSG 50 by \$1.5 million in FY2021 only.

- Career Connections- Reduce \$400,000 in FY2021 local one-time funds from CSG 50. Career Connections CSG 50 has a \$1.3 budget million in local funds. Expenditures as of June 18, 2021, are \$472,870, with \$106,198 encumbered and \$5,000 pre-encumbered, leaving a balance of \$717,158. Given the surplus in CSG 50 and the spending projections in Career Connections, the Committee recommends aligning the budget with planned spending and reducing CSG 50 by \$400,000 in FY2021 only.

#### ***8. Eliminate the Workplace Leave Navigators Grant Program (\$750,000)***

The Committee created a new grant program in the FY2021 Budget Support Act of 2020, the Workplace Leave Navigators grants, to help workers and businesses navigate the various leave-related laws in the District, including paid sick time and universal paid leave. Oversight of the program has yielded concerns about the program, including unequal payment rates for employer-serving groups and employee-serving groups despite performing substantially similar work, grant awards to organizations without ties to the community, late issuance of grant awards, and the agency's insistence that potential awardees violate attorney-client privilege by sharing personal client information with the agency. The DOES director also opposed creation of the grant program. The Committee thus recommends elimination of this grant program. The Committee believes a portion of these funds (\$250,000) and the Committee's efforts would be better redirected to a new grant program it is creating in partnership with the Judiciary Committee and the Office of the Attorney General to fund community organizations to provide worker education and legal services to District workers on a range of employment laws, including wage-hour, unemployment insurance, and workplace leave. See Chapter III for discussion of inter-committee funds transfer.

## **b. Policy Recommendations**

### **A. UNEMPLOYMENT INSURANCE**

#### ***1. DOES's Language Access<sup>14</sup> Services Must Be Expanded and Improved<sup>15</sup>***

More than a year into a global pandemic that has resulted in unprecedented unemployment, language access remains one of the most persistent barriers for unemployment insurance (UI) applicants in Washington, DC. In order to improve the breadth and quality of the unemployment system, DOES must make telephone interpretation easier for staff to use, hire a dedicated language access coordinator to work specifically within the Office of Unemployment Compensation (OUC) under the supervision of the agency's language access coordinator, and translate its UI claimant handbook and other vital documents into the most commonly-requested languages. DOES has made strides for Spanish speaking claimants, with the UI benefits portal and many documents now available in Spanish; however, the portal and many vital documents are not available in other commonly-spoken languages.

Witness testimony and constituent calls to the Committee over the past year have highlighted that many vital documents remained inaccessible to non-English speakers for most of the pandemic. These included:

- UI and PUA program descriptions;
- UI application forms to initiate a UI claim (except in Spanish);
- Weekly claims forms to certify ongoing eligibility for UI;
- Decision letters from the agency to the claimant; and
- DOES's call center.

Unfortunately, these concerns are not new—the Committee even received testimony in 2017 on these topics that reads like it was written today.<sup>16</sup> As a result of these problems, many non-English speakers were unable to access a safety net that was intended to assist them while businesses were shuttered due to the pandemic. It is past time for

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<sup>14</sup> Further background on language access in the District available here: <https://www.urban.org/sites/default/files/publication/22536/413097-ten-years-of-language-access-in-washington-dc.pdf>

<sup>15</sup> The top languages encountered in DOES in FY19 were Spanish, Amharic, French, Mandarin, Arabic, Korean, Vietnamese.

<sup>16</sup> “Though we indicated on the application that [the client’s] primary language is Spanish, her initial determination came in English, with no information on how to have the document translated. These determinations provide a very short deadline for reconsideration (15 days from date mailed) and contain vital eligibility information. [The client] had to return to clinic so we could explain the document to her and help her apply for reconsideration. She then received a phone call from the unemployment office requesting additional information[...]. This is one example of many we have seen at the unemployment office, where limited English proficient workers who are eligible for benefits ...often waste valuable time, energy, and money going back and forth across the city to have information explained to them or corrected for them, while English speakers are able to manage the system themselves from the comfort of their homes.” Written Testimony of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, April 24, 2017, hearing on the Language Access for Education Amendment Act of 2017.

DOES to remove remaining barriers so that unemployed workers with limited English ability are as able to access unemployment benefits as claimants who speak English with ease.

DOES must redouble its efforts to comply with the 2004 DC Language Access Act and section 188 of the federal Workforce Innovation and Opportunity Act (WIOA) in order to ensure that those whose primary language is not English can communicate with the agency. The Language Access Act has requirements for both oral and written language access. It requires DOES to “provide oral language services to a person with limited or no-English proficiency who seeks to access or participate in the services, programs, or activities offered,” without exception<sup>17</sup> and to provide written “translations of vital documents into any non-English language spoken by a limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered.”<sup>18</sup> Federal guidance states that regulations “explicitly require states to translate written, oral, or electronic “vital information,” defined as information necessary for an individual to obtain any aid, benefit, or service, or to understand how to do so.”<sup>19</sup>

In joint testimony at the March 3, 2021, performance oversight hearing, advocates said that DOES fails to adequately serve Limited or Non-English Proficient workers.<sup>20</sup> Even one year after the pandemic began, DOES had not published Amharic translations of initial claims forms for UI, PEUC, Extended Benefits, or PUA, weekly (continuing) claims forms, or appeal forms. In addition, they said that Amharic and Spanish speakers routinely received emails about their claims in English only – even after notifying DOES that their primary language was other than English. Finally, the advocates often must wait on hold for hours before being connected to a translator. The advocates urged DOES to prioritize language translations (including Amharic), disability access, and compatibility with mobile devices.

In 2019, the Office of Human Rights tested DOES’s language access practices and found that less than half of those seeking services from DOES were helped in their primary language. OHR also reported that “some employees attempted to provide services but did not know how to connect to Language Line Solutions or apologetically suggested (in English) that the tester call back another time.”<sup>21</sup>

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<sup>17</sup> DC Code §2-1932

<sup>18</sup> DC Code §2-1933.

<sup>19</sup> UIPL 02-16 Change 1, page 3, available at [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_02-16\\_Change-1\\_Acc.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_02-16_Change-1_Acc.pdf). Appendix B to the UIPL contains resources to improve language access, available at [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_02-16\\_Change-1\\_Attachment-2\\_Acc.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_02-16_Change-1_Attachment-2_Acc.pdf). The guidance also states, “Examples of vital information in the UI context include applications for benefits, notices of rights and responsibilities, and communications requiring a response from the beneficiary or applicant. This information must be translated into languages spoken by a significant number or portion of a state’s population.”

<sup>20</sup> Joint Testimony of Drake Hagner, Supervising Attorney, Legal Aid Society of the District of Columbia, and

Tonya Love, Program Director and Attorney, Claimant Advocacy Program, March 3, 2021.

<sup>21</sup> Report to the Council under the DC Language Access Act of 2004, available at: <https://lms.dccouncil.us/downloads/LIMS/46077/Introduction/RC23-0227-Introduction.pdf>.

This points to a need for DOES to make these services more convenient (or less cumbersome) for staff to use. The agency can learn how to address this by gathering candid feedback via an email survey, convening a staff meeting to get feedback from staff, or by assembling a focus group comprised of staff with different public-facing roles.

DOES should also translate into the required languages all vital documents that claimants must be able to read in order to fully access and comply with the unemployment insurance system.<sup>22</sup> Important email and mailed notices to claimants should be prioritized, in order to ensure that claimants have prompt notice of eligibility issues and do not lose their opportunity to appeal.

The claimant perspective should be centered when DOES is translating its website, online forms, and mailed documents. This can be done by asking focus groups of intended users to review draft materials and provide feedback. DOES should then incorporate such feedback. Unfortunately, in the past, DOES has produced information that did not help claimants. For example, in late 2020 DOES released its first Amharic-language resources on its UI website. It purported to give claimants step-by-step instructions but required the user to constantly refer back to the English-language application itself. This was a waste of agency resources. Had the document been vetted by Amharic-speaking claimants – the intended audience -- before it was finalized, it could have been revised in order to work for claimants. In the future, grantees and contractors that provide language services should be required to have a focus group of intended users screen draft documents before they are finalized for DOES use.

Finally, the OUC should hire a language access coordinator whose job will focus full-time on the needs of non-English speakers using the complicated unemployment insurance system. The OUC language access coordinator should review all UI systems and procedures to ensure they are suitable for speakers of other languages. The coordinator should also secure good working relationships with advocates working with non-English speakers in the community. By forming these relationships, the agency can be certain to know immediately when a person who needs language support initiates the claims process. And, adding this support for workers with language needs will improve the accuracy and speed with which DOES processes initial UI claims. The agency can also connect these claimants with language accessible job placement services more quickly by having a dedicated language access coordinator.

Finally, the new UI benefits portal should be accessible in the most commonly-spoken languages and the vital documents generated for claimants should be provided in those languages. See section 3 of this chapter for further discussion of recommendations for the portal.

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<sup>22</sup> DC Code §2-1933.

***2. Improve Shared Work Participation Rates<sup>23</sup> by providing up-to-date guidance and publicizing the program to employers***

DOES needs to improve implementation of the Shared Work program by providing clear, pre-application guidance to employers. Shared Work (also known as “Short-Time Compensation”) allows employers to respond to worsened business conditions by reducing their staff’s work hours, rather than laying off staff, and making those workers eligible to receive prorated unemployment insurance benefits. Despite DC’s Shared Work law having been enacted in 2010, the program had never been implemented in the District before the coronavirus pandemic. The CARES Act and subsequent federal legislation have incentivized states to create and expand Shared Work programs. It provided full federal funding for the benefits paid to claimants through September 6, 2021, and grants to states for program implementation and improvements are available until December 31, 2023. Now, DOES must ensure that the Shared Work program is publicized and implemented as broadly as possible. Not only does the program help avoid layoffs, but by drawing on federal dollars, it allows the District to limit expenditures from the District’s Unemployment Insurance Trust Fund.

The Committee hopes that DOES has addressed the initial challenges businesses were experiencing when they attempted to take part in Shared Work. In mid-2020, businesses reported to the Committee that Shared Work was not feasible for them. This is because DOES was relying on the old model for Shared Work, rather than the law’s revisions that had been authorized in newer legislation. In the past, Shared Work was commonly used by businesses that were facing reduced demand and potential permanent closure. In those cases, a business that was fully staffed up would identify units to reduce working hours and then scale back their operation after the plan was approved. In contrast, the public health emergency in DC was declared abruptly, with most businesses slashing staff hours to zero without any warning. Rather than reducing work hours from a normal schedule, DC businesses were resuming business at a reduced schedule hoping to work back up to their normal schedule.

DOES erroneously told businesses that they could not use Shared Work in this way. Instead, businesses were told that they had to resume their normal (pre-pandemic) operating hours and usual employee shifts – financially impossible for many businesses – before they could use Shared Work. This was an unfortunate misunderstanding of the law as revised by the Council in June 2020.<sup>24</sup> The Committee staff and responsible staff within DOES discussed this while the legal changes were being drafted and subsequently because it was essential to making shared work function during the pandemic. In the intervening months, the Committee referred several Shared Work issues on behalf of employers who were experiencing problems with the program to the agency.<sup>25</sup> Receiving no clarification

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<sup>23</sup> Law 18-238, the “Keep D.C. Working Act of 2010.”

<sup>24</sup> DC Code §51-171, effective December 3, 2020.

<sup>25</sup> The Committee also continued to regularly discuss concerns regarding claimants’ access to expanded unemployment benefits programs in calls between the Committee Chair and agency Director, staff-level discussions, letters, and public roundtables.

to the question of ramping up operations, the Committee emailed the agency for clarification on October 19, 2020.

The Committee wrote: “according to [recent DOL guidance](#), employers should be able to use the program in this way. The guidance states:

*In the context of re-opening businesses closed temporarily by a pandemic, [short term compensation] can also serve as a means of bringing most or all of a temporarily laid-off workforce back to the job, even if social-distancing measures, a decline in business, or other factors prevent operating at full staffing levels full time. Specifically, this benefit may be made available to individuals returning to work with reduced hours who worked for the employer prior to the temporary lay-off due to COVID-19.”*

DOES responded on October 20 that, “So long as an employee was employed by a Shared Work employer at a full-time schedule prior to layoffs or furloughs caused by COVID-19, the employee can be brought back on as part of a Shared Work Plan at a reduced rate.” DOES clarified upon further discussion that by “full-time schedule” it meant the employee’s typical weekly schedule. However, the information DOES currently provides in its online FAQs states that “Employee must have been on your payroll continuously for at least three (3) months immediately preceding the date the application for a Shared Work plan is submitted.” This is misleading because the employee needs only to have been working for the employer for three months before the slowdown in operations due to the pandemic. The agency should correct this information in the booklet.<sup>26</sup> The Committee has notified employers and businesses groups of this clarification, but remains concerned that between April 1, 2020 and November 30, 2020, only 57 businesses and 730 employees had participated in Shared Work. DOES should consider why there was such a long delay in correcting this erroneous application of the law and devise solutions to ensure it does not happen again.

DOES must also provide more proactive assistance to employers interested in Shared Work in order to ensure work plans can be approved in 15 days or less, as required by law.<sup>27</sup> Employers have reported long delays before hearing back from the Department. Employers need certainty in order to create work schedules, notify recalled staff, and resume operations, and ensuring applications were complete and accurate when submitted to the agency would make this process more efficient. Approving the applications within the required time frame would also help businesses plan for reopening.

### **3. Convene A Multistate Working Group Around UI Claims Issues**

“Combined-wage claims,” which are unemployment claims by workers who have earned income in DC and another state, continue to be one of the most common reasons

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<sup>26</sup> Guide for Employers: Shared Work, An Alternative to Layoffs, <https://does.dc.gov/sites/default/files/dc/sites/does/publication/attachments/2020%20DC%20Shared%20Work%20Pamphlet%20-%20Processes%20and%20Guidelines%20V3.pdf>.

<sup>27</sup> DC Code §51-174



why claimants experience long delays receiving UI benefits. In 2020 and 2021, many DC claimants who exhausted the benefits they qualified for in DC were later found to have income earned in another state, making them potentially qualified to receive unemployment benefits in the other state.<sup>28</sup> Claimants can also file for a combined wage claim that simultaneously accounts for wages in both states and includes all wages in the base period when calculating the benefit, rather than two sequential claims.

DOES often instructs claimants later found to have wages in another state to file a new claim in the other state. In some cases, those people can receive weekly UI benefits in the other state. However, many claimants in this situation report to the Committee that their earnings out of state were minimal—for example, they worked a single shift for a catered event on site in Maryland. Since every state is experiencing exponentially more claims than normal, many people file a new claim outside DC only to wait weeks for a decision and then be denied benefits after already having waited weeks for a decision from DOES. This is extremely burdensome for UI claimants who have no other source of income to help pay the rent or mortgage.

In a March 11 letter from the Committee and signed by ten Councilmembers, the Committee asked DOES to meet with its Maryland and Virginia counterparts in order to establish some ground rules for which UI cases needed to be referred to each other. DOES did not directly respond to the Council’s suggestion, only stating that the agency must follow federal law—a duty the Committee appreciates and does not suggest violating. DOES Director Morris-Hughes told the Committee at the March 2021 performance oversight hearing that staff from the Office of Unemployment Compensation (OUC) regularly speak with their counterparts out of state on a staff, rather than management, level regarding individual claims. However, the Committee believes that management must come to the table in order to make policy and strategic decisions about how to better manage these multi-state wage claims on a systemic basis.

The agency’s apparent unwillingness to initiate a more formal multi-state working group to improve efficiency in the greater Washington region only serves to harm claimants throughout the region. The Committee urges DOES to identify three key areas of concern for UI claimants with combined wage claims<sup>29</sup> and ask Maryland and Virginia representatives to meet on these topics as soon as possible in order to help claimants still dealing with this problem. DOES may be restrained from interpreting other states’ laws on behalf of claimants, but the other states can provide their formal opinion to DOES about what would improve DC claimants’ success in receiving their benefits and in an expeditious manner.

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<sup>28</sup> Several claimants have informed the Committee that they were never told the difference between a combined wage claim and a standalone UI claim; unfortunately, those DC claimants who initiated standalone claims but who had out-of-state wages could not easily transition to PEUC in the District. They, instead, had to pursue claims in other states, even where those claims would not be approved due to the low overall earnings in the state.

<sup>29</sup> Hearing witnesses have testified that they did not understand why they had to file outside of DC, that DOES told them to file in another state where they were ultimately denied benefits before being sent back to DOES for assistance, and that it is difficult for claimants to prove to DOES when employment data in its interstate system is incorrect.

## **B. WORKFORCE DEVELOPMENT**

### ***1. Map and publish the process for navigating workforce services at the Department of Employment Services.***

DOES should develop informational materials that clearly and concisely communicate to the public how a resident can participate in DOES' workforce development services. The materials should use infographics and jargon-free text to demonstrate the process for service navigation. In developing these materials, the Committee recommends DOES map the process with step-by-step instructions for accessing the most utilized workforce services, such as the American Jobs Center, Project Empowerment, DCIA, MBSYEP, and the federal workforce programs.

A solid example of the recommended process maps is DOES' Office of Talent & Client Services (TCS) 7 Steps to Success.<sup>30</sup> The TCS brochure depicts the process employers follow to receive support from TCS for various business needs. There are seven specific steps with a brief description of DOES' role and activities throughout the process of partnering. There is a clear starting and endpoint, with a notation of required action items by TCS and employers at each step. The prominent display of contact information identifies multiple methods for employers to communicate with TCS, from a website, e-mail, and phone to social media links. The brochure is aesthetically pleasing, easy to interpret, and targets multiple reading levels with the opportunity for straightforward language interpretation.

The Committee has heard that residents do not know where to find services or how to enroll. To address the knowledge gap, DOES process maps should be written from the resident's perspective, use plain language, spell out all acronyms, and include pictures or infographics when possible. The materials should reflect the inclusive language and test them on various focus groups. DOES should give particular attention to the ease of interpreting materials into other languages and should have the maps translated and released simultaneously as the English maps.

Completed maps should be made available to the public in both hard copy and electronic versions. DOES should post the information on their website and all social media outlets. The web materials should be downloadable and available for duplication. The materials should also include a quick response electronic barcode (QR code) that eases the information's distribution and retention.

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<sup>30</sup> Department of Employment Services, Office of Talent and Client Services, "7 STEPS to SUCCESS," undated, available at: [https://does.dc.gov/sites/default/files/dc/sites/does/page\\_content/attachments/TCS%207%20Steps%20to%20Success.pdf](https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/TCS%207%20Steps%20to%20Success.pdf)

Process maps alone will not solve the information barriers between DOES and the public. Still, they offer a more transparent outline of finding, applying, and receiving various services through the District of Columbia's Department of Employment Services.

- 2. DOES should align youth activities, strategic plans, and budgets with OSSE Career and Technical Education (CTE) to maximize student learning and preparation for employment or post-secondary education.***

The Committee recommends that DOES align its summer youth activities, strategic plans, and budgets with OSSE Career and Technical Education (CTE) program design and Industry Advisory Boards (IABs) to maximize student learning and preparation for transition to employment or post-secondary education. Youth workforce services in the District span the gamut from career awareness, career exploration, and job readiness to credential attainment, internships, and summer employment. However, services are provided across different government agencies and providers with minimal coordination. DOES's main youth program is the summer employment program; however, it is not built on the education and career preparation that youth do during the school year. Furthermore, the current duplication of services calls for coordination and a division of labor.

DC's Marion Barry Summer Youth Employment Program (MBSYEP) has been the first job for generations of Washingtonians. It provides youth ages 14 to 24 with six weeks of employment or job preparation and other activities to help youth earn money, get exposure to work, and develop skills for employment. Unfortunately, many youths report they are unable to request placement, or their request is not honored at an employer site related to their interests. The host site is provided a curriculum and learning objectives outlined in a Supervisors Handbook available at the MBSYEP website <https://summerjobs.dc.gov/page/employers>. However, the handbook does not provide sample lesson plans, and there is not a pre/post assessment of a young person's comprehension of the information. The relaxed requisites of the MBSYEP program mean participant satisfaction varies and is not clearly tied to a specific occupation or career pathway.

For many years MBSYEP was the only employment program for youth until more recently when DCPS developed Career Academy schools, the Career Bridge program, and OSSE CTE revamped their state plan and incorporated more employment preparation such as internships. The revised plan outlines CTE Programs of Study by participating schools, related occupational codes, industry-recognized credentials, labor market information data, and the role of Industry Advisory Boards (IABs). Moreover, the CTE plan requires work-based learning activities and career awareness, exploration, and preparation fully informed by Industry Advisory Boards. The IABs are a mechanism for employers to shape the future workforce and develop a pipeline of prepared and trained District residents. This is an opportunity for DOES to align its youth programs for those youth who are in District schools so that the programs complement one another.

Additionally, in FY2021, the Council passed the School Year Internship Pilot Program (SYIP), a one-year pilot intended to extend the MBSYEP model year-round for

students not engaged in OSSE CTE services. It was intended to serve 250 students in FY2021; however, the Committee is aware 884 youth applied and is eager to obtain from DOES outcomes of the FY2021 program performance. The Committee is recommending legislation to permanently establish this internship program in the future (see Chapter IV.B.4).

Given the MBSYEP, OSSE CTE and SYIP, are serving the youth of similar age and learning needs, DOES and OSSE should coordinate efforts to synthesize program design and maximize work experience opportunities for the District's youth regardless of age or school enrollment. For example, students enrolled in CTE programs are not eligible for the SYIP but can participate in MBSYEP. Currently, some students are receiving a structured industry-informed course that combines classroom theory instruction and reinforcement of the instruction through internship placement, while others are only receiving work-based learning without the classroom theory component. If DOES and OSSE collaborate, all students, regardless of the agency providing services, will acquire the skills necessary to transition to work or post-secondary education. DOES could utilize the CTE IAB's to expand host sites or the number of youth assigned to sites and enhance the MBSYEP and SYIP programs.

Furthermore, the Committee has recommended DOES develop a strategic plan on youth services for four years. This has been the top recommendation of the last three independent evaluations, and in January 2018, the previous director stated that one was underway, but it has not happened. A DOES strategic youth workforce services plan that reflects coordination and alignment with OSSE's CTE program would help DOES' youth participants to build upon their education and other CTE activities from the school year, in turn helping them prepare more fully for post-secondary education or employment.

Finally, the collaboration should extend into budgets through shared expenses. Delineation of shared expenses can reduce each agency's overall costs and allow more youth to participate in programming. For example, DOES has a system to support employer host site submission of timesheets and distribution of pay to youth. By sharing this service with OSSE, the District maximizes efficiency and reduces cost by not replicating something that already works. As of December 31, 2020, DOES has over \$7 million<sup>31</sup> in unspent federal WIOA youth funding, while it and spends over \$25 million in local funding each year, almost entirely on MBSYEP. Federal law requires 60% of federal youth funding to be spent on out-of-school youth, while District law requires 66% of local funding to go to in-school youth. In addition to DOES local funds, the District spends \$5.4 million from the OSSE CTE FY2021 federal funds<sup>32</sup>. Once all youth employment local and federal funding streams are combined, the District has enough funding to increase the

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<sup>31</sup> FY2021 DOES Performance Oversight Response Attachment Q12, available at: <https://dccouncil.us/labor-and-workforce-development-5/>

<sup>32</sup> Estimated Fiscal Year (FY) 2021 State Allocations under the *Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act* (Perkins V) found at: [https://s3.amazonaws.com/PCRN/file/Program\\_Memo-Estimated\\_FY\\_2021\\_Perkins\\_State\\_Allocations.pdf](https://s3.amazonaws.com/PCRN/file/Program_Memo-Estimated_FY_2021_Perkins_State_Allocations.pdf)

number of District youth participating in career education and work exposure programming. The Committee recommends DOES coordinate with OSSE Career and Technical Education (CTE) program to ensure the District's youth are prepared for the transition to work or post-secondary education and develop workforce pipelines for future employment in the District's most in-demand industries.

**3. *Implement all aspects of the First Source Law to update requirements and support the creation of pipelines***

DOES should implement all provisions of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 effective February 24, 2012 (DC Law 19-84). The First Source Law requires all beneficiaries of contractual agreements with the District Government totaling \$300,000 or more to enter into a First Source Employment Agreement with the Department of Employment Services. Under the law, 51% of all new hires on any government-assisted project or contract between \$300,000 and \$5,000,000 must be District residents. First Source law also requires that each government-assisted construction project receiving assistance totaling \$5M or more have District of Columbia residents working on the project at various percentage levels based on the classification of workers on the construction project.

**a. Work to update requirements to meet appropriate goals**

The First Source law was revised in 2011 to provide the Department of Employment Services flexibility to be responsive to market changes in both construction and non-construction trades. Specifically, DOES is required to evaluate the minimum required hiring rates for District residents in non-construction industries and set industry-specific rates appropriate for those industries. However, DOES has not exercised the law's flexibility nor issued the required rules, creating frustration for employers and employment levels for District residents on taxpayer-funded investments that are less than the public desires.

During the Committee's November 19, 2020, hearing on B23-0570, the "First Source Resident Employment Amendment Act of 2019" and B23-0436, the "First Source Community Accountability Amendment Act of 2019," employers expressed disappointment with the current First Source law. For construction projects, Cindy Athey, owner, and president of Precision Wall Tech painting company, testified, "While we are truly trying to make a difference and acting in good faith, we do not feel that our efforts provide us any consideration when working through First Source issues and we are forced to continue to compete against companies that are seeking ways to avoid the First Source requirements."<sup>33</sup>

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<sup>33</sup> Cindy Athey Precision Wall Tech testimony at Committee on Labor and Workforce Development public hearing on "First Source Resident Employment Amendment Act of 2019" and "First Source Community Accountability Amendment Act of 2019" Thursday, November 19, 2020.

Additionally, non-construction employers also testified to their displeasure with the First Source law. Ian Paregol, Executive Director of DC Coalition on Disability Service Providers, testified on the shortage of qualified and available District residents for hire as direct support professionals. Mr. Paregol stated that "provider attempts to meet the 51% requirement required countless recruitment hours and outcomes that result in delays and inconsistent services for those receiving [direct support] services."<sup>34</sup> He further argued that current First Source requirements are not appropriate for human service providers experiencing worker shortages.

The First Source law outlines in §2–219.03 (1A)(I) and (1B)(A) a mandate for the Mayor to review and recommend new industry-specific required hiring rates for District residents on both construction and non-construction projects within one year of February 24, 2012. The law also states DOES is to review such rates to determine the appropriateness of the industry-specific rates and report to Council at least every 3 years. Unfortunately, DOES has never submitted recommendations or proposed rules to the Council, so non-construction projects must still abide by the baseline 51% District resident new hire requirement, regardless of whether it is the most appropriate level for the industry. The Committee calls upon DOES to complete the mandated review and recommend revisions to both construction and non-construction required hiring rates that are informed by the impacted business communities.

### **b. Support the creation of pipelines into employment**

DOES should work with providers on the front end of projects to create pipelines of trained and qualified workers to fill the jobs created on First Source projects. The business community is not the only stakeholder frustrated with the implementation of First Source in the District. Workforce development providers have also requested revisions to the law. Providers have shared with the Committee frustration with DOES's lack of engagement. Providers want to prepare workers for employment with District funded projects but do not know what jobs or how many jobs the projects will create.

During November 19, 2020, hearing on First Source legislation, the Coalition on Non-Profit Housing and Economic Development (CNHED) testified on behalf of workforce development providers in support of more transparency on project timelines and increased collaboration with community-based workforce development providers. Specifically, CNHED suggests, "[DOES] should convene previewing events to inform the referring organizations about projects with a First Source requirement along with the project's hiring needs and requirements," and "for DOES to work collaboratively with community-based workforce training organizations to assist in vetting and referring residents for placement, and making them aware of upcoming projects in order to better

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<sup>34</sup> Ian Paregol DC Coalition on Disability Service Providers testimony at Committee on Labor and Workforce Development public hearing on "First Source Resident Employment Amendment Act of 2019" and "First Source Community Accountability Amendment Act of 2019" Thursday, November 19, 2020.

plan and prepare residents for future employment."<sup>35</sup> The Committee has engaged in multiple discussions with the public and private workforce providers and employers on the need for a pipeline of workers ready and prepared for the jobs created by First Source contracts. First Source law establishes the mechanism for the development of such pipelines. The law requires the winning bidder to submit a revised employment plan basics, such as the number of jobs and occupations, and must include:

- A strategy to ensure that District residents who work on the project or contract receive ongoing employment and training opportunities after they complete work and review practices to employ District residents from one project or contract to the next.<sup>36</sup>
- A strategy to hire graduates of District of Columbia Public Schools, District of Columbia public charter schools, and community-based job training providers, and hard-to-employ residents.<sup>37</sup>

Without access to review the full employment agreement, the public cannot review the strategy each contract outlines for hiring residents. This barrier prevents training providers from aligning program offerings with future job vacancies created by the First Source contracts.

Furthermore, the 2012 law included a requirement to modernize the First Source recordkeeping. DOES must provide the public with website access to all employment agreements entered and their status of compliance, the project or contract's assigned Contracting Officer or First Source Compliance Officer, and their contact information.<sup>38</sup> Currently, the DOES website only provides a list of projects, assigned contracting officers, and status of compliance. The public cannot view the contents of the employment agreements—such as occupations and number of jobs—and therefore lack the necessary information to prepare residents for jobs on First Source projects.

The authors of the First Source law had the foresight to know industries are constantly changing, and as such, so must the conditions, requirements, and mechanisms for preparing and employing District residents. It is the recommendation of the Committee for DOES to exercise the full authority given to them and implement all aspects of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011.

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<sup>35</sup> Evette Banfield, CNHED testimony at Committee on Labor and Workforce Development Public Hearing on “First Source Resident Employment Amendment Act of 2019” and “First Source Community Accountability Amendment Act of 2019” Thursday, November 19, 2020.

<sup>36</sup> §2-219.03(e)(1A)(F)(ii)(XII)

<sup>37</sup> §2-219.03(e)(1A)(F)(ii)(XIII)

<sup>38</sup> § 2–219.04a [Feb. 24, 2012, D.C. Law 19-84, § 2\(e\), 58 DCR 11170.](#)

4. ***Braid local and federal funds together in transitional employment, summer youth, and adult training programs to make our resources go further.***

The Committee recommends DOES seek approval from the WIC to utilize federal funds to cover portions of Project Empowerment and MBSYEP programs. Braiding local and federal funding together in a complementary manner will expand the number of participants served by programs in a long-term sustainable manner, rather than the current practice of having 100% locally funded programs separated from the 100% federally funded programs.

Innovative budgeting and programming are needed as the District will face a significant loss of ARPA funding in FY2025. It would be wise for the District to leverage all federal funds available in order to enhance services to the District's unemployed. Federal WIOA funds are one resource the WIC can authorize DOES to use for training expenses, which would make local funds available for expenses like wages and stipends.

During the FY2021 performance oversight hearing, Director Morris-Hughes testified that all locally funded training programs are "earn and learn" models, meaning participants can learn a new skill while also receiving support for their basic living expenses. Adult participants enrolled in Project Empowerment and Career Connections receive a subsidized hourly wage of \$10.00 per hour up to 30 hours per week, and youth enrolled in MBSYEP receive a range of wages depending on age during the 6 weeks program. Unfortunately, such financial support is not provided for all federally funded programs. The director testified that WIOA Title I funds do not cover wages or stipends for participants as they are not allowable uses under the law. The Director has the authority to change the situation by providing locally funded stipends to WIOA trainees.

Similarly, the Director could seek approval from the WIC to fund portions of Project Empowerment and Career Connections with federal funds, thus utilizing all resources in a more complementary manner. The District has not spent past years full allotments of WIOA Title I Adult Programs funding. As of December 31, 2020, the District has over \$6 million in unspent Title I Adult funds.<sup>39</sup> Conversely, DOES spends nearly \$29 million of local funds on services that *are* allowable under federal grants. DOL's Employment and Training Administration (ETA) endorses the use of federal WIOA funds on transitional employment programs identical to Project Empowerment and Career Connections. The Training and Employment Guidance Letter No 19-16 states, "Under [regulations], Local WDBs may use up to 10 percent of their combined total of adult and dislocated worker funds to provide transitional jobs to individuals."<sup>40</sup> DOL also provided transitional employment as a type of work-based learning in the WIOA Desk Reference developed for American Job Centers.<sup>41</sup> Additionally, the ETA developed lists of technical assistance resources to help state and local workforce leaders successfully implement a

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<sup>39</sup> Performance Oversight Pre-hearing materials attachment Q12.

<sup>40</sup> US Department of Labor Employment and Training Administration TEGL 19-16 found at: [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_19-16\\_acc.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_19-16_acc.pdf)

<sup>41</sup> WIOA Desk Reference found at: <https://ion.workforcegps.org/-/media/Communities/ion/Images/Content-Thumbnail-Images/Work-Based-Learning-Factsheet-2020.ashx>



summer youth employment program. ETA also endorses the use of federal WIOA youth funds for summer employment programs identical to the District's MBSYEP.<sup>42</sup>

By braiding local and federal dollars together, DOES can expand training programs and ensure that each resident is financially supported while training occurs. The funds provided to the District through WIOA are invaluable in preparing for the revenue cliff in FY2025, and Project Empowerment and MBSYEP budgets will dramatically shrink. The Committee strongly recommends that DOES increase its utilization of federal WIOA funds for training expenses now and expand support for enrolled participants through a locally funded wage or stipend.

## **C. PAID LEAVE**

### ***1. Publish available data on universal paid leave program***

Since July 2020, the District has provided benefits under its new Universal Paid Leave Program (UPL). This program provides partial wage replacement to workers who must take leave from work when they bring a new child into their lives or need time to care or recover when workers have significant life and health events. DOES operates the program with a staff of more than 100. With a year under its belt, the agency has collected a great deal of data about who receives benefits, their demographics, the amounts received, and more, that can be utilized for both analysis and preparation for any necessary improvements. The Committee hopes the agency is drawing on this useful knowledge bank to identify areas of potential improvement. Unfortunately, though this data is of great interest to the public, DOES refused a request of the Committee for access to the underlying data; the data also has not been made publicly available. DOES should publish this information on its website and regularly update it so that the public and interested parties, including the Committee, may view the actual utilization of the program, as well as where there may be gaps. The data would be particularly helpful to analyze whether the program is utilized and operated in a racially equitable way. There is no legitimate reason to withhold raw data from public view, since it does not betray any personal privacy concerns.

DOES has contracted with an outside vendor, Metropolitan Strategies and Solutions (MSS), for approximately \$1 million to put together data, recommendations, and other information.<sup>1</sup> MSS has put together the data visually with charts that demonstrate a wide range of information. At the Committee's request, MSS provided a briefing on their work under the contract and demonstrated some of the data that they have collected. Such data included contributions details including dollar amounts and numbers of employers, as well as quarterly trends; benefits and claims information including types of leave, demographics (ward, race, gender) of claimants, denials and approvals, and other information. The data is displayed in a graphical program in the form of tables, charts, and graphs. MSS is also conducting analysis, such as the finding that White claimants are much more likely to take parental leave (available up to 8 weeks) than Black claimants, and Black

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<sup>42</sup> Summer Jobs for Youth Resources US DOL ETA Workforce GPS found at:  
<https://youthsummerjobs.workforcegps.org/resources/2017/04/07/10/52/IntroPage2017>

claimants take personal medical leave (available up to 2 weeks) at twice the rate of Whites. There is also a very high rate of denials for Ward 8 claimants. This is just a sampling of information demonstrated during the Committee’s briefing.

The data gathered under a taxpayer-funded contract has enormous potential to inform policy decisions about the UPL program as well as analysis of implementation. Why are some wards seeing higher denial rates? What drives the difference in use of types of leave between claimants of different races, and should the amount of leave available be updated such that it is available in a more equitable way—meeting the needs of particular communities? Without access to this information, the public cannot conduct any analysis nor evaluate policy proposals, from the Executive or other sources. DOES should regularly publish detailed, comprehensive reports such as Washington state’s annual report.<sup>43</sup> While DOES publishes quarterly reports on implementation, it would benefit from being more comprehensive, particularly now that benefits have been paid out for nearly a year. Most importantly, DOES should immediately share the full data set with the Committee and should publish the data online, including the charts already created, within one month.

## ***2. Allow health care providers to submit forms electronically***

DOES should work to upgrade its benefits portal to allow medical providers to electronically submit certifications that are necessary for approval of leave. Currently, claimants must submit a paper medical certification form completed by their health care provider in order to apply for benefits. Paper forms are a challenge for low-wage workers who lack access to technology, transportation to drop off the form at and pick up the form from their provider's office, and a smartphone or scanner to scan and upload the signed form. Because workers cannot (due to the agency’s current interpretation of its regulations) apply for benefits for past dates of missed work, low-wage workers frequently miss days or weeks’ worth of benefits while they are waiting for their health care providers to complete these paper forms. To solve this problem, the Committee recommends that DOES 1) allow health care providers to complete these forms electronically through the PFL benefits portal, and 2) allow workers to apply for benefits for dates when they missed work in the past, to account for any delays in completing the forms. The Committee notes that it is recommending a legislative change to allow for retroactive payment of claims so that workers are not penalized for being unable to submit their claims on the day of their qualifying leave event. See Chapter IV.A.2. for further information.

## ***3. Help self-employed individuals navigate paid leave with engaging videos***

Self-employed individuals still need clear, appropriate information from DOES in order to understand how to opt in to the program, how to properly enroll and report wages, and how to draw benefits from the District’s paid family leave program. In January 2021, DOES stated that it was planning to publish videos to help self-employed individuals set

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<sup>43</sup> Washington State Employment Security Department, “Washington Paid Family and Medical Leave Annual Report,” Dec. 2020, available at <https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/newsroom/Legislative-resources/2020Paid-Leave-Program-Report.pdf>.

up their paid family leave accounts, file reports, and make payments. This was welcome news to the Committee, as small businesses have told the Committee that they need more guidance from DOES about how to navigate and effectively use the self-employment portal. DOES should reach out to self-employed individuals to get their input about using the portal, especially Freelance DC. Freelance DC is a local group of independent workers who share resources and information with one another, and they have proven to be a key resource for freelance workers over the past year.<sup>44</sup>

One example of a very effective and engaging informational video is “DC Government Employees: Return to the Workplace” created by DCHR and published in July 2020.<sup>45</sup> This video was created by DCHR employees using Powtoon, a website that provides software for creating videos, in a matter of a couple of weeks. Whatever DOES’s approach, the end goal should be to help more self-employed workers participate in paid leave.

#### **D. LABOR STANDARDS: Office of Wage-Hour (OWH)**

##### ***1. Comply with the Law By Limiting Where Complainants’ Identities Must Be Disclosed***

DOES’s complaint form requires anyone who reports a violation of their workplace rights to let DOES tell their employer who filed the complaint. This practice directly contradicts the law’s requirement to keep complainants’ identities confidential.<sup>46</sup> It deters complaints, inhibiting the agency’s ability to discover violations of the law. In order for DOES to lawfully and meaningfully investigate potential violations of the law, DOES must keep all workers’ information in strict confidence unless a court demands disclosure or, in limited circumstances, where a complainant provides informed consent for their identity to be released. Only then will it protect this information to the “maximum extent,” as the Council intended and the law explicitly states. DOES should immediately remove this requirement from the complaint form and update its standard operating procedures to make confidentiality the default, not the exception.

The Council included the confidentiality clause in order to strengthen the agency’s ability to discover legal violations. DC Code section 32-1306 (a-1) says that the Mayor “shall *encourage reporting* pursuant to this section by *keeping confidential, to the maximum extent permitted by applicable laws*, the name and other identifying information of the employee or other person reporting a violation during the course of any

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<sup>44</sup> FreelanceDC prepared a blog post entitled “So, you need to apply for unemployment in DC as a freelancer or independent contractor...”, available at <https://www.freelancedc.org/so-you-need-to-apply-for-unemployment-in-dc-as-a-freelancer-or-independent-contractor/> that reached 122 members of the public seeking to understand the PUA program providing unemployment-like benefits to independent workers.

<sup>45</sup> <https://www.youtube.com/watch?v=oQudeIambls&t=1s>

<sup>46</sup> DC Code §32–1306 (a-1).

investigation.” (emphasis added).<sup>47</sup> The law’s explicit rationale to “encourage reporting” helps to mitigate the hesitation a complainant can otherwise experience if their employer knows they were the one to file a complaint. Confidentiality helps investigators do their jobs better because it means the complainant can be frank about the facts of their case without concern that their employer will find out. DOES’s current practice of requiring complainants to disclose their identity also narrows the scope of the investigation to the specific incident or incidents the employee was able to properly allege. It is possible that such a narrowed scope not only overlooks additional violations against the complainant but the same violations against other employees. In defending its unlawful practice of requiring workers to disclose their identity to their employer, DOES says that investigations that maintain complainant confidentiality can be *more challenging* to complete.<sup>48</sup> The law does not exempt the agency from having to conduct challenging investigations. More importantly, it prioritizes the interests of the potentially wronged worker over that agency’s ability to quickly or easily resolve a complaint.

**a. DOES Can Effectively Investigate While Keeping Complainants Confidential and Providing Employers Due Process**

DOES is well-equipped and statutorily empowered to conduct fair and complete investigations while protecting the confidentiality of complainants in most cases. The agency’s authority to initiate an investigation, regardless of whether a complaint has been filed, is codified in section 32-1306 of the law, which also gives DOES the authority to issue subpoenas, compel the production of payroll and other documents, and take testimony and depositions.<sup>49</sup> With all of these tools at its disposal, DOES should be able to overcome the challenges posed by not being able to tell an employer which of their employees filed a complaint.

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<sup>47</sup> DC Code §32–1306 (a-1) continues, “provided, that with the authorization of such person, the Mayor may disclose the employee or person’s name and identifying information as necessary to conduct a hearing and enforce this chapter or other employee protection laws, including the Living Wage Act, the Minimum Wage Revision Act, or the Sick and Safe Leave Act.”

<sup>48</sup> DOES says, “The language of DC Official Code § 32-1306 (a-1) does not require confidentiality where to do so would conflict with other applicable provisions of District law. [...] DOES does not require claimants to disclose their identities to their employers. However, employer knowledge of the claimant's identity can be necessary for the efficient production of records. Specifically, DOES cannot properly investigate without the production of documents relevant to the claimant. Further, in order for an employer to effectively respond to an alleged violation, they must know which employee(s) the allegation concerns. This information would allow the employer to identify any exceptions which may be applicable to that claimant. Where confidentiality would hinder the employer's ability to mount a defense, due process would require that the claimant's identity must be revealed. While DOES respects claimant confidentiality, absolute confidentiality could both hinder DOES' investigation, and, more importantly, deny the employer due process rights. DOES maintains employee confidentiality to the extent allowed by law and practicality. When it becomes necessary to reveal an employee's identity, they are informed of that need in advance. If they provide their consent, they are then informed of the District's law prohibiting retaliation and assured that DOES will investigate any claims of retaliation they make.” DOES Responses to Follow-Up Questions in the March 5, 2021 Performance Oversight Hearing, April 26, 2021, page 2.

<sup>49</sup> DC Code §32-1306(b)(1)

DOES continues to resist strategic enforcement despite its proven effectiveness at identifying widespread violations and deterring future violations.<sup>50</sup> One technique of strategic enforcement is to broaden investigations beyond an individual complainant to a wider work unit or workplace (i.e., companywide investigations).<sup>51</sup> In such an investigation, DOES need not disclose the specific complainant’s name, job role, or all the facts about the complaint to an employer in order to provide the employer with proper notice of the charges against it and an opportunity to respond. It can simply draw on its authority to investigate compliance to demand the employer’s records and inspect them to ascertain the level of non-compliance within the company.

Let’s say a worker named Aaron wrote to DOES to say he was not paid overtime by his retail employer for two weeks in January 2021, specifying the name of his supervisor, the names of coworkers who worked the same shifts, and other information only known by employees working at that employer. Upon interviewing Aaron, an investigator decides that Aaron’s allegations are credible. DOES need only notify the employer that an employee complained of a violation of the overtime law for a time period which *includes* the two weeks Aaron specified. The agency can anonymize the complaint by saying, “A cashier alleges they were not paid overtime in January 2021 despite working more than 40 hours per week.” The investigation need not be limited to the instances Aaron initially alleged and can also include other employees working for the employer. DOES should demand time sheets, wage records, and employee information—all records that the employer is already legally obligated to maintain for the purpose of efficiently resolving potential disputes.<sup>52</sup> This protects Aaron’s identity as the individual who made the complaint, reducing the chances that he will be threatened, demoted, or otherwise retaliated against by his employer while the investigation is taking place. And, in the event DOES is able to confirm Aaron’s allegations, the agency can compare this against the records of similarly-situated employees to determine whether the violation was isolated to Aaron or more widespread.

By conducting workplace-wide investigations, DOES would signal to employers that they cannot hide behind the claim that nonpayment of a worker’s wages or sick time was an oversight or technical glitch. Workplace-wide investigations also help DOES tailor penalties to the egregiousness of an employee’s situation, being more lenient with isolated issues but coming down harder on issues that impact an entire workplace. It also has the potential to help multiple workers at once to get their lawfully owed wages—a goal DOES says is central to its mission.<sup>53</sup> Finally, and as the Committee elaborated on in the FY2021

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<sup>50</sup> David Weil, “Creating a strategic enforcement approach to address wage theft: One academic’s journey in organizational change,” *Journal of Industrial Relations*, 60(3):437-460, June 2018.

<sup>51</sup> Janice Fine, Daniel J. Galvin, Jenn Round, and Hana Shepherd, Maintaining effective U.S. labor standards enforcement through the coronavirus recession, September 2020, page 24, <https://equitablegrowth.org/wp-content/uploads/2020/09/090320-labor-enforcement-report.pdf>.

<sup>52</sup> DC Code §32-1008(a)

<sup>53</sup> In fact, the DOES website states: “The Office of Wage-Hour conducts compliance audits and works to recover unpaid wages for employees who have not been paid pursuant to DC wage laws, either administratively or through court action. Wage-Hour compliance involves ensuring adherence to the wage laws of the District of Columbia by holding employers accountable to the laws.” See <https://does.dc.gov/service/office-wage-hour-compliance-0>

Committee Report, the agency can use the opportunity to settle claims with forward-looking compliance terms that improve workplace conditions for current and future employees.

**b. DOES Must Disclose Identities Sparingly, Only with Complainants' Informed Consent**

During an investigation of violations against workers, DOES should only disclose a complainant's identity when the complainant understands the reason why disclosure is needed and agrees to move forward with the complaint.<sup>54</sup> The law says that "with the authorization of such person, the Mayor may disclose the employee or person's name and identifying information as necessary to conduct a hearing and enforce this chapter or other employee protection laws." First, a hearing on the issue of whether a violation occurred can be conducted without a specific complainant's identity being disclosed. In the case of a predetermination hearing within DOES, the agency can provide the facts underlying the allegations without identifying the source of that information. At the appeal stage or in another proceeding at the Office of Administrative Hearings, (OAH) the DOES investigator who conducted the complaint intake and has reviewed the case file could testify as to what they were told by the complainant. Or the agency could ask the judge to review its evidence in chambers, away from the employer. When this approach is available, disclosing the employee's identity is not necessary to resolve the dispute.

If DOES finds that the complainant's issue cannot be resolved without disclosing their identity, as in the case of an employee who says they were retaliated against for filing a DOES complaint, the agency must ensure that the complainant is aware of the potential risks of informing the employer that this individual filed an administrative complaint. Informed consent is more than the complainant agreeing to their identity being disclosed.<sup>55</sup> It means that the person providing consent has been provided with relevant details about potential risks and outcomes, an opportunity to ask questions, and the choice of whether to agree or not. At all times, DOES should remind the complainant of their right to withdraw the administrative complaint at any time. Some complainants may decide that the risk is too great to resolve the issue via the administrative process.<sup>56</sup> In that case, DOES should allow the complainant to withdraw from participation and the agency should assess the evidence the complainant provided to determine whether a workplace-wide investigation of the named employer is warranted. If the complainant wants to move forward despite the

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<sup>54</sup> Similarly, when the agency investigation is over and DOES appears at OAH on appeals, it should insist on confidentiality and only reveal the identity when ordered by the court.

<sup>55</sup> Informed consent is "[a]n agreement to do something or to allow something to happen, made with complete knowledge of all relevant facts, such as the risks involved or any available alternatives. For example, a patient may give informed consent to medical treatment only after the health care professional has disclosed all possible risks involved in accepting or rejecting the treatment. A health care provider or facility may be held responsible for an injury caused by an undisclosed risk. In another context, a person accused of committing a crime cannot give up his constitutional rights -- for example, to remain silent or to talk with an attorney -- unless and until he has been informed of those rights, usually via the well-known Miranda warnings." Nolo's Plain-English Law Dictionary, available at: [https://www.law.cornell.edu/wex/informed\\_consent](https://www.law.cornell.edu/wex/informed_consent)

<sup>56</sup> In such cases, DOES should exercise its authority to conduct a workplace-wide investigation based on the tip provided by the complainant.

risks, DOES should advise them to keep records of any interactions with their employer so that, if the employer retaliates, DOES can bring additional charges. DOES should act upon any retaliation by the employer immediately, but in no case more than 72 hours after receiving a complaint.

By only seeking consent for disclosure of the complainant's identity after attempting other methods of investigating the complaint, DOES would achieve the statutory requirement of protecting complainants' identities "to the maximum extent permitted by applicable laws."

### 3. FY 2022-2027 CAPITAL BUDGET

Row Labels	Allotment as of 26 May 2021 (includes Pre-Encumbrances)	2022 Planned Allotment	2023 Planned Allotment	2024 Planned Allotment	2025 Planned Allotment	2026 Planned Allotment	2027 Planned Allotment	Sum of FY 2022-FY 2027 Total Planned Allotment
CF0	45,658,828	39,370,370	16,255,150	0	0	0	0	55,625,520
DEPARTMENT OF EMPLOYMENT SERVICES								
DW101C	0	580,000	0	0	0	0	0	580,000
DOES DATAWORKS								
Mayor's Proposed FY22 Change	0	580,000	0	0	0	0	0	580,000
NWR01C	0	1,735,000	0	0	0	0	0	1,735,000
4058 NETWORK INFRASTRUCTURE								
Mayor's Proposed FY22 Change	0	1,735,000	0	0	0	0	0	1,735,000
PFL08C	5,526,351	0	0	0	0	0	0	0
PAID FAMILY LEAVE IT APPLICATION								
Existing Balances	5,526,351	0	0	0	0	0	0	0
SNTRCC	10,910,771	33,473,850	14,255,150	0	0	0	0	47,729,000
DC INFRASTRUCTURE ACADEMY								
Approved FY21 CIP for FY22-26	0	26,473,850	14,255,150	0	0	0	0	40,729,000
Mayor's Proposed FY22 Change	0	7,000,000	0	0	0	0	0	7,000,000
Existing Balances	10,910,771	0	0	0	0	0	0	0
SYP01C	0	300,000	2,000,000	0	0	0	0	2,300,000
SUMMER YOUTH EMPLOYMENT PROGRAM- CAPITAL								
Mayor's Proposed FY22 Change	0	300,000	2,000,000	0	0	0	0	2,300,000
UIM02C	29,221,705	3,281,520	0	0	0	0	0	3,281,520
UI MODERNIZATION PROJECT-FEDERAL								
Approved FY21 CIP for FY22-26	0	5,450,000	0	0	0	0	0	5,450,000
Mayor's Proposed FY22 Change	0	(2,168,480)	0	0	0	0	0	(2,168,480)
Existing Balances	29,221,705	0	0	0	0	0	0	0
<b>Grand Total</b>	<b>45,658,828</b>	<b>39,370,370</b>	<b>16,255,150</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55,625,520</b>

## Committee Analysis and Comments

### 1. Fully implement the UI Modernization project

The Mayor's proposed budget for DOES includes \$39,370,000.00 in capital funds for FY2022 with a six-year total for FY2022-FY2027 of \$55,626,000.00. The capital improvement plan includes \$10,911,000.00 in unspent allotments, leaving a total of \$47,729,000.00 in available funding.

The UI Modernization project is important and has languished in the capital budget for a very long time. This project will develop and deploy a fully integrated tax and benefits information technology system. This system will replace an outdated mainframe technology that is expensive to maintain and difficult to adapt to changing legal requirements. The pandemic demonstrated the urgent need for this project, as both the volume of claimants and the need for rapid programmatic changes left the existing system overwhelmed.



This project was first proposed in the FY2012-2017 capital plan, with a total of \$18 million in capital allotments (including \$7 million of federal funds) later appropriated as scheduled in FY2014 and FY2015. The FY2018-2023 capital plan increased the project's scheduled funding by an additional \$19.8 million, followed by largely offsetting reprogrammings of allotments from and to the project. The Mayor's proposed FY2022-2027 capital plan includes a FY2022 allotment of approximately \$3,282,000, bringing the total of prior and proposed allotments to approximately \$56,792,000.

Total spending since the inception of this project exceeds \$18 million; however, the Committee cannot say with any confidence that those funds have been well spent, considering the amount of work remaining to be done. The Committee is baffled by the thought that the project has spent just \$360,000 (roughly 5%) of the \$7 million in available federal funding. Including the FY2022 allotment, over \$32 million is now available (unencumbered and unspent) for this project. The Committee believes that this project has received ample funding.

At this time, the Committee recommends no changes to the proposed budget for the UI Modernization project. The Committee expects that project implementation will follow the policy recommendations set forth below.

***2. UI Modernization: DOES Must Center the User Experience in Developing New UI Portals***

**a. Conduct testing to ensure systems meet users' needs**

DOES must conduct user testing on both the employer and employee portals before they are launched. On the employer side, the new UI Tax Portal is expected to go live in summer 2021. According to the agency Director's testimony on June 11, DOES plans to conduct user testing for employers in July and August and roll out the key features of the new system in Fall 2021. Last year, employers reported that there were errors in the data after it had been uploaded to the DOES system, and made their tax liability amounts unclear or inaccurate. User testing will enable participating employers to begin to acquaint themselves with the new system while identifying bugs, such as last year's, that could hinder efficient reporting to DOES. It will also help build confidence in DOES and its new system.

On the employee benefits side, user testing must be conducted on an ongoing basis, providing claimant input throughout the development process to ensure ahead of time that the ultimate portal will be thoroughly accessible: DOES should not wait until the system is fully built to make sure it works, or it could delay the launch. DOES should identify claimants now who can provide periodic feedback and consider providing them a stipend for participating. DOES must also conduct user testing when the portal is complete to obtain feedback about how to improve the user experience. It must ensure that such feedback is incorporated before launch.

DOES should also have a detailed plan to inform claimants of the changes they will see in the new portals. When the systems are rolled out, DOES should provide users with clear guidance about how to use the new portal via live webinars, brief instructional videos, and a point of contact with the agency who can answer questions by phone. Using the feedback employers and claimants provide via these mechanisms, DOES should identify ways to improve efficiency and ensure that instructions are revised, as necessary, to clearly answer any questions that users may have.

### **b. Incorporate user needs in portal design and complete project on time**

The updated UI Benefits Portal should be completed on time and with attention to the needs of claimants. Over the last year, DOES has become intimately aware of the shortcomings of the existing benefits system. These are not just bureaucratic hiccups but problems that mean our neighbors cannot put food on the table. Troubles with the UI benefits system have exacerbated the mental and emotional strain on claimants who were already operating on limited capacity due to other pandemic circumstances. Stress – whether due to a pandemic or unemployment during any other time -- is known to make it difficult to concentrate and make decisions.<sup>17</sup> That’s why the UI portal must use clear, plain language, communicate regularly and frequently with claimants, and be accessible using the variety of digital devices claimants are likely to have.

The 2021 BSA required these and other specifications. It also requires the modernization upgrade to be completed by September 30, 2022; however, the procurement process is already behind schedule. The DC Office of Contracting and Procurement issued the Request for Proposals (RFP) in December 2020, with bids due January 8, 2021, and a contract with Geographic Solutions (“GeoSolutions”) being finalized on June 10, 2021. At the budget oversight hearing, DOES stated that work would begin roughly 60 days later but the Director stated her skepticism that her agency was capable of meeting the legally established deadline. By way of explanation, DOES said that once the contractor begins working, there could be unanticipated issues posed by the existing, antiquated benefits technology. Ultimately, DOES pointed to having established a functional paid family leave benefits system via a contract with GeoSolutions and emphasized that delivering a satisfactory end product was of greater importance.

### **3. *Proceed with relocating the DC Infrastructure Academy NE; and provide alternate transportation solutions and Integrated Adult Education and skills training.***

The Mayor has proposed relocating the DC Infrastructure Academy from the existing location on Pomeroy Street, SE (Ward 8) to 2500 Benning Rd, NE (Ward 5) in the old Spingarn High School. This project will support build-out of the DC Infrastructure Academy, a program that will focus on occupational skills training and work-based learning initiatives related to the infrastructure industry, including the utility, energy efficiency, transportation, and logistics sectors. The Academy will offer a diverse skills training allowing District residents the tools to begin and sustain careers in the infrastructure industry.

While the proposal will provide a larger operating facility for infrastructure training, the location is west of the Anacostia River and public transportation is limited to WMATA bus or DC Streetcar. The Committee is supportive of the DC Infrastructure Academy finding a new home, but in FY2021, it requested that DOES and DGS review all options east of the Anacostia River. The Committee recommended a preference for locations in Ward 8 with close access to both Metrorail and Metrobus stations. The Committee was not provided with any analysis of a location review.

The Committee remains concerned with the chosen location, 2500 Benning Rd, NE (Ward 5). Ideally, DCIA will be in Ward 8 where unemployment rates are high historically. Access to public transportation and affordability of transportation is also a barrier for families East of the River. The Committee is committed to reducing barriers. DOES and DGS did not identify an alternate location for the DC Infrastructure Academy in Ward 8. The Committee is not reducing the capital funds associated with the Academy's new home, but the Committee strongly recommends DOES consider transportation alternatives to ease any barriers to program participation.

Additionally, the project includes a \$4 million for expansion of vocational studies. The Committee strongly recommends DOES include integrated adult basic education in the vocational studies offered at DCIA. The Integrated Basic Education Skills Training (IBEST) model has been hailed as a best practice. The District's OSSE Adult and Family Education providers have made great strides supporting adult learners. One or more of the OSSE AFE providers would be well positioned to co-locate at 2500 Benning Rd, NE and provide adult education for DCIA participants.

***2. Implement the Network Infrastructure at DOES headquarters, 4058 Minnesota Ave, NE.***

The Committee supports DOES' plan to update and improve the network infrastructure of 4058 Minnesota Ave, NE. The initiative will replace the outdated network infrastructure throughout 4058 Minnesota Ave with newer more modern equipment. It will also increase the number of WAPs (wireless access points) across the building to support the growing number of wireless devices used by both staff and customers. It is important because the existing equipment is more than a decade old and will be meeting its end-of-life support from the manufacturers. The increase in WAPs will provide better coverage and expanded capacity of the wireless network.

The Coronavirus pandemic demonstrated the importance of high-speed internet. The District quickly pivoted to a virtual workplace and as the District reopens the Committee anticipates some services will remain virtual. For DOES to best serve the residents of the District, it will need reliable WIFI throughout all facilities, and as employees return to work, the demand for internet will increase. The proposed Network Infrastructure project will replace the existing equipment with new more modern devices, the number of simultaneous wireless users will increase, and the coverage of the wireless network will expand to support the entire building.

### ***3. Implement the DOES Dataworks project.***

The Committee enthusiastically supports the implementation of the DOES Dataworks project. This project will improve, standardize, and modernize the data environment at DOES by (1) creating an enterprise data warehouse that will house all DOES data with data flowing directly into the data warehouse from existing source systems; (2) transforming and standardizing all data in the data warehouse to allow for easy integration of all DOES data and allow for improved analysis, research, and reporting; (3) building an internal front-end application to the data warehouse for DOES staff to enable complete access to appropriate data in the data warehouse and view real-time performance and output metrics for all DOES programs; and (4) providing a comprehensive public data portal that will provide the public with increased and faster access to DOES data. The public data portal will also provide workforce program scorecards that will provide DC residents with additional information about the opportunities available from DOES so they can make more-informed decisions about the various workforce programs.

This project will remove existing data silos that have built over time at DOES and allow for increased and faster reporting and analysis on DOES programs. This will allow DOES to better serve DC residents by getting near "real-time" performance measures on DOES programs based on standardized and centralized data and reporting. This project will increase transparency in DOES by providing more and faster data to the public and releasing data through interactive data visualizations. The Committee urges DOES to coordinate with the WIC to permit access to data, transmission of data and that the data measures are the same.

The Committee is a big supporter of data-driven decisions and commends DOES for investing in the tools necessary to support decision making with data. This project will be successful if (1) the enterprise data warehouse is created and is used by 100% of DOES programs, (2) DOES is able to reduce or eliminate the need for internal and external data requests, (3) DOES is able to reduce the amount of time needed for regular reporting by DOES programs, and (4) DOES reduces the level of effort needed to perform routine and complex analyses across the agency. The Committee looks forward to receiving the improved data reports generated by the DOES Dataworks project.

### ***4. Implement the DOES Summer Youth Employment Program Capital project.***

The Committee supports the proposed Summer Youth Employment Program Capital project. The Office of Youth Programs currently consists of 3 programs: Mayor Marion S. Barry Summer Youth Employment Program (MBSYEP), Marion Barry Youth Leadership Institute (MBYLI) and Year-Round Programs (local and federally funded). These programs interact with 25,000 youth each year and serve close to 12,000 youth each year.

Each program collects overlapping applicant data. Our IT infrastructure for youth programs is scattered, not up-to-date, or non-existent in some cases, which hinders the

programs in many ways. This project will condense multiple Office of Youth Programs operating systems into one centralized interfacing web application tool. This web application tool will be used as a case management tool, data collection, data management, data visualization dashboard, pull and filter data for reporting mechanisms, program applications tool, host and participant management system and time keeping and management system.

Youth advocates and provider organizations have supported funding for a centralized data portal for youth programming. DOES believes the project will lead to the following successful outcomes:

- Increased productivity and limit overtime costs.
- Increased overall certification numbers
- A more user-friendly experience for users and staff.
- Greater compatibility across mobile devices.
- Reducing unnecessary in-person trips to the office.
- Real time data dashboard that allows for data to be retrieved and analyzed instantly
- A centralized system for case management notes.
- Reducing the amount of information requested each year for returning participants. For instance, if you submitted a birth certificate one year and its on file, you should not have to provide one the next year.

The Committee appreciates the agency's attention to this need and eagerly awaits the conclusion of the project.

#### **4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

##### **a. Summary of Fiscal Year 2022 Operating Budget Recommendations**

1. Fund Jobs First DC Pilot Program to provide immediate job placement and retention assistance (\$500,000)
2. Shift the Rapid Reskilling ARPA funds to enhance nursing and IT credential-based training at UDC
3. Utilize a portion of outyear ARPA funds in FY2022 to support jobseekers and residents today (\$15,000,000).
4. Fund payments to unemployment compensation claimants who had to wait extraordinarily long for their first payment (\$15,500,000)
5. Fund and implement the School Year Internship Program Amendment Act of 2021 (\$839,197 recurring) by shifting funds from the Summer Youth program
6. Enhance budget by \$40,000 to create user-friendly UI informational videos
7. Enhance budget by \$xxx to post wage payment information online
8. Robustly implement the Ban on Non-Compete Agreements Amendment Act to ensure workers understand their rights (\$675,9710 over four years)
9. Fund B23-90, Commission on Poverty Establishment Amendment Act of 2020 (\$667,248 recurring)

10. Reduce Office of Wage Hour enforcement by \$1,087,000 as increased budget is not adequately justified
11. Align FY2021 and FY2022 workforce development program budgets with past and planned spending
  - Local Adult Training- Reduce \$100,000 in FY2021 local one-time funds
  - Local Adult Training- Reduce \$300,000 in FY2022 local recurring funds
  - Career Connections- Reduce \$400,000 in FY2021 local one-time funds
  - Transitional Employment Program- Reduce \$1.5 million in FY2021 local one-time funds
12. Eliminate the Workplace Leave Navigators Grant Program (\$750,000)

**Summary of Budget Changes for DOES (CF0)**

Program	Activity	CSG	Frequen cy	FY2022 recomme ndation	Comments	Legislation
2000	2200	40	Recurring	40,000	Enhancement for informational UI videos (BSA)	BSA The Unemployment Compensation Improvements Amendment Act of 2021
2000	2200	50	One Time	15,500,000	UI late payment compensation (DOES) (BSA)	BSA Subtitle Delayed Unemployment Compensation Payments Relief Amendment Act
3000	3200	0011	Recurring	59,670	Program manager (supervisory program analyst) responsible for writing rules to implement the bill, promoting the bill's protections to employees, and investigating complaints received about employers violating the non-compete ban	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
3000	3200	0012	Recurring	(83,646)	Eliminate vacant position 92170-Wage & Hour Comp Spec	
3000	3200	0014	Recurring	(19,740)	Eliminate vacant position 92170-Wage & Hour Comp Spec	
3000	3200	0014	Recurring	13,724	Fringe for program manager	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
3000	3200	0040	Recurring	(54,000)	Policy choice that provides \$200k for OAH MOU and \$70k for ASSLA study	
3000	3200	0040	Recurring	25,000	Public education campaign	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
3000	3200	0040	Recurring	5,000	MOU with OAH	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
3000	3200	0041	Recurring	(800,000)	Align budget with planned spending. Contract will be completed in FY21.	
3000	3200	0050	Recurring	(130,000)	Reduction to Office of Wage Hour community education grant program	
3000	3200	0070	Recurring	1,500	Equipment and NPS	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
4000	4250	0012	One Time	(346,716)	Reduction in personnel service costs associated with Rapid Reskilling (ARPA County Funds).	
4000	4250	0014	One Time	(78,358)	Reduction in personnel service costs associated with Rapid Reskilling (ARPA County Funds).	
4000	4250	0020	One Time	(4,800)	Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
4000	4250	0050	Recurring	(300,000)	Reduction to align budget with planned spending.	

Program	Activity	CSG	Frequency	FY2022 recommendation	Comments	Legislation
4000	4250	0050	One Time		Reduction to align budget with planned spending.	
4000	4250	0050	One Time	(5,500,000)	Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
4000	4250	0070	One Time	(12,800)	Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
4000	4810	11	Recurring	255,792	Enhancement for permanent school year internship program to serve 350 interns per year--wages--salary	BSA School Year Internship Program Amendment Act of 2021
4000	4810	14	Recurring	76,405	Enhancement for permanent school year internship program to serve 350 interns per year--wages--fringe	BSA School Year Internship Program Amendment Act of 2021
4000	4810	40	Recurring	10,000	Enhancement for permanent school year internship program to serve 350 interns per year--NPS	BSA School Year Internship Program Amendment Act of 2021
4000	4810	50	Recurring	497,000	Enhancement for permanent school year internship program to serve 350 interns per year--wages	BSA School Year Internship Program Amendment Act of 2021
4000	4810	50	One-time	2,000,000	Grant at DOES to a non-profit organization that has or seeks to start up a workforce development program for youths in Ward 7 and 8 in computer science, construction, and the creative economy sectors.	
4000	4820	0050	Recurring	(839,197)	Reduction; redirect to school year internship program	
4000	4900	0012	One Time	(158,577)	Redirect to WIC's employer partnership program (ARPA State Funds)	
4000	4900	0014	One Time	(46,303)	Redirect to WIC's employer partnership program (ARPA State Funds)	
4000	4900	0050	One Time	(6,388,806)	Redirect to WIC's employer partnership program (ARPA State Funds)	
5000	5100	11	One-time	85,000	Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
5000	5100	14	One-time	20,000	Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
5000	5100	0050	One Time		Reduction to align budget with planned spending	
5000	5100	50	One-time	500,000	Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
5000	5200	0050	One Time		Reduction to align budget with planned spending	
6000	6200	0050	Recurring	(750,000)	Eliminate Workplace Leave Navigators Program	



Program	Activity	CSG	Frequency	FY2022 recommendation	Comments	Legislation
7000	7400	11	Recurring	325,526	Poverty Commission staff: Executive Director (CS Grade 17/18) and two other staff (CS Grade 12/5)	B23-90 Poverty Commission Establishment
7000	7400	14	Recurring	95,050	Fringe for Poverty Commission staff	B23-90 Poverty Commission Establishment
7000	7400	40	Recurring	186,710	Poverty Commission consultant for report preparation; travel reimbursement for appointed members; website creation and maintenance; meeting, listening session, and forum expenses	B23-90 Poverty Commission Establishment
7000	7400	70	Recurring	59,962	Poverty Commission office space equipment, devices, software, furnishings, and supplies	B23-90 Poverty Commission Establishment

## **b. Summary of FY2022 Policy Recommendations**

### American Rescue Plan Act Funds

1. DOES should focus on recruitment and post-program unsubsidized employment performance for Project Empowerment as it grows threefold in FY2022.
2. Expand employer custom-designed training at DCIA and utilize industry advisory boards
3. Increase IT, CDL course offerings at DCIA
4. Couple occupational credential training at DCIA with on-the-job work experience in Project Empowerment to ensure residents are trained, readied, and prepared for long-term permanent employment.
5. Approve and fund a Geriatric Caregiver Apprenticeship program
6. Continue and expand digital literacy training

### Unemployment Insurance

1. DOES's Language Access Services Must Be Expanded and Improved
2. Improve Shared Work Participation Rates by providing up-to-date guidance and publicizing the program to employers
3. Convene A Multistate Working Group Around UI Claims Issues

### Workforce Development

1. Map and publish the process for navigating workforce services at the Department of Employment Services.
2. DOES should align youth activities, strategic plans, and budgets with OSSE Career and Technical Education (CTE) to maximize student learning and preparation for employment or post-secondary education.

3. Implement all aspects of the First Source Law to update requirements and support the creation of pipelines
  - a. Work to update requirements to meet appropriate goals
  - b. Support the creation of pipelines into employment
4. Braid local and federal funds together in transitional employment, summer youth, and adult training programs to make our resources go further.

#### Paid Leave

1. Publish available data on universal paid leave program
2. Allow health care providers to submit forms electronically
3. Help self-employed individuals navigate paid leave with engaging videos

#### Labor Standards

1. Comply with the Law and Limit Where Complainants' Identities Must Be Disclosed
  - a. DOES Can Effectively Investigate While Keeping Complainants Confidential and Providing Employers Due Process
  - b. DOES Must Disclose Identities Sparingly, Only with Complainants' Informed Consent

#### **b. Fiscal Year 2022 Capital Budget Recommendations**

1. Fully implement the UI Modernization project (\$3,282,000)
  - a. UI Modernization: DOES Must Center the User Experience in Developing New UI Portals
    - i. Conduct testing to ensure systems meet users' needs
    - ii. Incorporate user needs in portal design and complete project on time
2. Proceed with relocating the DC Infrastructure Academy NE; and provide alternate transportation solutions and Integrated Adult Education and skills training. (\$33,474,000)
3. Implement the Network Infrastructure at DOES headquarters, 4058 Minnesota Ave, NE. (\$1,735,000)
4. Implement the DOES Dataworks project. (\$580,000)
5. Implement the DOES Summer Youth Employment Program Capital project. (\$300,000)

## D. EMPLOYEES' COMPENSATION FUND (BG0)

### 1. AGENCY MISSION AND OVERVIEW

The mission of the Employees' Compensation Fund (ECF) is to administer the Public Sector Workers' Compensation program for District of Columbia government employees and to pay the required claims costs of eligible claimants, pursuant to applicable District laws.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

Fiscal Year 2022 Operating Budget, By Revenue Type						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	\$21,176,875	\$22,146,569	\$22,146,569	0	\$22,146,569	0
<b>Gross Funds</b>	<b>\$21,176,875</b>	<b>\$22,146,569</b>	<b>\$22,146,569</b>	<b>0</b>	<b>\$22,146,569</b>	<b>0</b>

Fiscal Year 2022 Full-Time Equivalents, By Revenue Type						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	49.0	49.0	49.0	0	49.0	0
<b>Gross Funds</b>	<b>49.0</b>	<b>49.0</b>	<b>49.0</b>	<b>0</b>	<b>49.0</b>	<b>0</b>

Fiscal Year 2022 Operating Budget, By Program (Gross Funds)							
<i>Program</i>		<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
0010	Disability Compensation Fund	\$21,176,875	\$22,146,569	\$22,146,569	0	\$22,146,569	0
	<b>Total</b>	<b>\$21,176,875</b>	<b>\$22,146,569</b>	<b>\$22,146,569</b>	<b>0</b>	<b>\$22,146,569</b>	<b>0</b>

### Committee Analysis and Recommendations

#### a. Budget Recommendations

The Committee recommends approving the Mayor's budget as proposed.

### 3. FY 2022-2027 CAPITAL BUDGET

ECF has no proposed capital budget for FY 2022-2027.

**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Fiscal Year 2022 Operating Budget Recommendations**

The Committee recommends approving the Mayor's budget as proposed.

## E. OFFICE OF EMPLOYEE APPEALS (CH0)

### 1. AGENCY MISSION AND OVERVIEW

The Office of Employee Appeals (OEA) is an independent agency that resolves disputes between government agencies and employees through impartial administration of the District's public employment statute, the DC Government Comprehensive Merit Personnel Act. OEA hears appeals challenging the following personnel actions: (1) a performance rating which results in the removal of the employee (2) an adverse action for cause which results in the removal (3) a reduction in grade (4) a suspension of ten days or more (5) a reduction in force, and (6) a placement on enforced leave for ten days or more. Beginning in FY2021, OEA will also hear a new category of cases, safety sensitive cases, in which an employee will be able to appeal the designation of their position as safety sensitive.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

Fiscal Year 2022 Operating Budget, By Revenue Type						
Fund Type	FY 2020 Actual	FY 2021 Approved	FY 2022 Proposed	Sum of Committee Variance	FY2022 Committee Approved	% Growth over FY2021
Local Fund	\$2,175,616	\$2,234,311	\$2,234,311	\$0	\$2,234,311	0.00%
<b>Gross Funds</b>	<b>\$2,175,616</b>	<b>\$2,234,311</b>	<b>\$2,234,311</b>	<b>\$0</b>	<b>\$2,234,311</b>	<b>0.00%</b>

Fiscal Year 2022 Full-Time Equivalents, By Revenue Type						
Fund Type	FY 2020 Actual	FY 2021 Approved	FY 2022 Proposed	Sum of Committee Variance	FY2022 Committee Approved	% Growth over FY2021
Local	15.1	15.0	14.4	0.00	17.00	
<b>Total</b>	<b>15.1</b>	<b>15.0</b>	<b>14.4</b>	<b>0.00</b>	<b>17.00</b>	

Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)							
Activity	FY 2020 Actuals	FY 2021 Approved	Mayor's FY 2022 Proposed	Committee Variance	Committee's FY 2022 Recommendation	Committee Percent Change	
<b>1000 - AGENCY MANAGEMENT</b>							
1020 - CONTRACTING & PROCUREMENT	\$76,319	\$115,628	\$117,631	\$0	\$117,631	1.73%	
1040 - INFORMATION TECHNOLOGY	\$69,446	\$79,357	\$65,677	\$0	\$65,677	(17.24%)	
1085 - CUSTOMER SERVICE	\$68,314	\$60,495	\$60,595	\$0	\$60,595	0.17%	
1090 - PERFORMANCE MANAGEMENT	\$237,921	\$273,467	\$272,311	\$0	\$272,311	(0.42%)	
1100 - OFFICE OF EMPLOYEE APPEALS	\$732,395	\$735,585	\$728,406	\$0	\$728,406	(0.98%)	
<b>TOTAL PROGRAM FUNDS</b>	<b>\$1,184,394</b>	<b>\$1,264,531</b>	<b>\$1,244,620</b>	<b>\$0</b>	<b>\$1,244,620</b>	<b>(1.57%)</b>	
<b>2000 - ADJUDICATION</b>							
2001 - ADJUDICATION PROCESS	\$926,235	\$870,917	\$948,880	\$0	\$948,880	8.95%	
2002 - APPEALS	\$0	\$30,680	\$0	\$0	\$0	(100.00%)	
2003 - MEDIATION	\$64,987	\$68,182	\$40,811	\$0	\$40,811	(40.14%)	
<b>TOTAL PROGRAM FUNDS</b>	<b>\$991,222</b>	<b>\$969,780</b>	<b>\$989,691</b>	<b>\$0</b>	<b>\$989,691</b>	<b>2.05%</b>	
<b>TOTAL AGENCY FUNDS</b>	<b>\$2,175,616</b>	<b>\$2,234,311</b>	<b>\$2,234,311</b>	<b>\$0</b>	<b>\$2,234,311</b>	<b>0.00%</b>	

## Committee Analysis and Recommendations

### a. Budget Recommendations

#### *1. Reallocate NPS funds to add funds for supplies and equipment*

The agency requested and the Committee recommends reallocating the NPS budget. Specifically, this would entail reducing OEA's FY2022 Other Services and Charges budget (CSG 40) by \$32,000 and offsetting that reduction by increases of \$6,5000 and \$26,000 in supplies (CSG 20) and equipment and equipment rentals (CSG 70), respectively. The Mayor's budget proposed \$0 in funding in FY2022 for supplies (CSG 20) and equipment (CSG 70).

### b. Policy Recommendations

#### *1. Draft five year report and analysis of OEA's mediation program and make recommendations to Council on whether mediation should continue to be mandatory for some types of cases.*

In 2011, the Council passed the Office of Employee Appeals Mandatory Mediation Act of 2011.<sup>57</sup> This Act required OEA to conduct mediations in all cases involving a removal, reduction in grade, a suspension of 10 days or more, placement on enforced leave of 10 days or more, or in other cases as determined by a hearing examiner. OEA is currently in the third year of the mandatory mediation program, and the mediation success rates were 13% in FY2018, 21% in FY2019, and 47% in FY2020.<sup>58</sup>

Since the mandatory mediation program began in FY18, the success rate has increased, but it is still successful in less than half of cases. OEA should put together and analyze data on the mediation program to review its operations and areas needing improvement. Data should include any trends in success by agency and type of case, as well as other information that would indicate why less than half of cases succeed and where. OEA should share the information and results of any analysis with the Committee, along with recommendations for how it can achieve a higher success rate for OEA mediations and which categories of cases may be best served by voluntary mediations.

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<sup>57</sup>Sec 1042 of the Office of Employee Appeals Mandatory Mediation Act of 2011, D.C. Law 19-21 (effective September 14, 2011); D.C. Official Code §1-606.06

<sup>58</sup> Office of Employee Appeals "Attachment to Responses to Fiscal Year 2018-2019 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, page 2 of Key Performance Indicators, available at <https://dccouncil.us/wp-content/uploads/2021/02/OEA-Performance-Responses-FY2020-2021-ATTACHMENTS.pdf>

## ***2. Implement Law 23-276, medical marijuana legislation providing additional appeal rights to certain employees***

In FY2022, OEA will implement a portion of a new law, the Medical Marijuana Program Patient Employment Protection Act of 2021 (L23-276). The law prohibits discrimination against District government employees who are medical marijuana patients. This protection does not extend to safety sensitive employees due to the risk factor involved; however, such employees will have other rights, and OEA will play a role.

Specifically, safety-sensitive employees will be able to appeal the designation of their job as safety sensitive. The law establishes a two-level appeal process, starting with the employee's personnel authority and then moving to OEA at the second level. Appeals may only be filed around certain triggering events: the effective date of the legislation, notification to an employee that their position will be newly designated as safety-sensitive, and when an employee becomes a qualifying patient.

The OEA procedure for safety-sensitive designation appeals will be similar to other appeals handled by the Office. To avoid confusion between appeals of safety-sensitive designation and appeals of final agency actions, the law creates a new section of the CMPA (603a), Appeals of Safety-Sensitive Designations, that largely mirrors the existing appeals procedures laid out in Section 603, Appeals Procedures. Like OEA's other cases, a hearing examiner will issue an initial decision, and an employee may appeal that decision to the OEA Board. However, the timelines of the designation appeals process at OEA are shorter compared to their other appeal cases, and a decision of the OEA Board will be final and not subject to judicial review, unlike in other OEA cases.

The OEA appeals process will go into effect at the beginning of the fiscal year when the law is funded, October 1, 2021.<sup>59</sup> OEA has identified implementation of this law as a top priority for FY2021 and began identifying necessary improvements to forms and processes. OEA should continue preparation to hear these cases in FY2022 by establishing procedures and developing guidelines, a new complaint form, or similar material for potential filers.

While the Committee is not aware of other states having a similar designation-appeal process, OEA should also review any relevant cases from other jurisdictions that prohibit workplace discrimination against medical marijuana patients, such as Connecticut, Delaware, Maine, Minnesota, New Jersey, New York, and Rhode Island.<sup>60</sup> Also, Nevada has a reasonable accommodations requirement that may prove instructive.

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<sup>59</sup> The law has a fiscal impact for the Office of the Attorney General, which represents the District in cases before OEA. They will require an additional staff person in the first two years of implementation due to a potentially initially high volume of cases filed as allowed when the law first becomes effective.

<sup>60</sup> National Council of State Legislators, "Cannabis and Employment: Medical and Recreational Policies in the States," available at <https://www.ncsl.org/research/labor-and-employment/cannabis-employment-laws.aspx>

### 3. *Complete drafting and publish new agency rules.*

OEA has been working on drafting and publishing new agency rule for since FY2019.<sup>61</sup> Periodic improvements to agency rules are necessary for the agency to adopt to new changes and emerging process issues, and to improve operations processes. This is especially important at present because the duration of the public health emergency is ambiguous and may continue for months or years.

OEA should draft and publish new agency rules during FY2022 that address technical issues and process improvements. The agency now has the opportunity to reflect technology and communication access enhancements in its rules that arose due to the public health emergency but will be useful in regular times and future emergencies. OEA should especially consider *pro se litigants* when drafting supplementary materials explaining the rule changes for publication on its website. The Committee also recommends facilitating an expansive discussion among all stakeholders such as employees and unions that file cases before OEA prior to submitting the proposed rules to the *Register*.

### 3. **FY 2022-2027 CAPITAL BUDGET**

OEA has no capital budget for FY 2022-2027.

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<sup>61</sup> Office of Employee Appeals, "Responses to Fiscal Years 2020-2021 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, page 1, available at <https://dccouncil.us/wp-content/uploads/2021/02/OEA-Performance-Responses-FY2020-2021.pdf>; Office of Employee Appeals "Responses to Fiscal Years 2019-2020 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, page 2, available at <https://dccouncil.us/wp-content/uploads/2020/02/oea.pdf>; Office of Employee Appeals "Responses to Fiscal Years 2018-2019 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, page 1, available at <https://dccouncil.us/wp-content/uploads/2019/02/OEA-2019-PO-repsonses.pdf>.



**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Summary of Fiscal Year 2022 Operating Budget Recommendations**

<b>Summary of Budget Changes for OEA (CG0)</b>						
<b>Program</b>	<b>Activity</b>	<b>CSG</b>	<b>Comments</b>	<b>Frequenc y</b>	<b>FY2021 recommen dation</b>	<b>FY2022 recomm endation</b>
2000 Adjudication	2001 Legal Support	40-Other Services	To correct spending pressure caused by \$0 allocated for supplies (CSG20) and equipment (CSG 70) in FY2022	One Time		(\$32,961)
2000 Adjudication	2001 Legal Support	20-Supplies and Materials	Mayor's budget allocated \$0 for supplies in FY2022	One-time		\$6,500
2000 Adjudication	2001 Legal Support	70- Equipment & Equipment Rental	Mayor's budget allocated \$0 for equipment in FY2022			\$26,093

**b. Policy Recommendations**

1. Draft five year report and analysis of OEA's mediation program and make recommendations to Council on whether mediation should continue to be mandatory for some types of cases.
2. Implement Law 23-276, medical marijuana legislation providing additional appeal rights to certain employees
3. Complete drafting and publish new agency rules.

## F. OFFICE OF LABOR RELATIONS AND COLLECTIVE BARGAINING (AK0)

### 1. AGENCY MISSION AND OVERVIEW

The Office of Labor Relations and Collective Bargaining (OLRCB) serves as the Mayor's principal management advocate in labor matters between the District and unionized employees. OLRCB is responsible for representing management before the Public Employee Relations Board (PERB); engaging in collective bargaining negotiations, including those involving compensation agreements and impacts and effects bargaining; advising the Mayor and District agencies in labor matters; developing and implementing the city's labor initiatives, and; providing training to labor liaisons, managers, supervisors, and management officials regarding their rights and obligations as required by the Comprehensive Merit Personnel Act and other sources of the District's labor laws and policies.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum Committee Variance</i>	<i>of Committee Approved</i>	<i>% Growth over FY2021</i>
Local Fund	\$2,212,000	\$2,402,694	\$2,636,044	(\$50,000)	\$2,586,044	
<b>Gross Funds</b>	<b>\$2,212,000</b>	<b>\$2,402,694</b>	<b>\$2,636,044</b>	<b>(\$50,000)</b>	<b>\$2,586,044</b>	

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum Committee Variance</i>	<i>of Committee Approved</i>	<i>% Growth over FY2021</i>
Local	17.0	17.0	17.0	0.00	17.00	
<b>Total</b>	<b>17.0</b>	<b>17.0</b>	<b>17.0</b>	<b>0.00</b>	<b>17.00</b>	

<b>Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)</b>						
<i>Activity</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Approved</i>	<i>Mayor's FY 2022 Proposed</i>	<i>Committee Variance</i>	<i>Committee's FY 2022 Recommendation</i>	<i>Committee Percent Change</i>
<b>3000 - LABOR RELATION AND COLLECTIVE BARGAINING</b>						
3005 - LABOR RELATION AND COLLECTIVE	\$0	\$0	\$2,636,044	(\$50,000)	\$2,586,044	#DIV/0!
<b>TOTAL PROGRAM FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,636,044</b>	<b>(\$50,000)</b>	<b>\$2,586,044</b>	<b>#DIV/0!</b>
<b>TOTAL AGENCY FUNDS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,636,044</b>	<b>(\$50,000)</b>	<b>\$2,586,044</b>	<b>#DIV/0!</b>

## Committee Analysis and Recommendations

### a. Budget Recommendations

#### ***1. Reduce the NPS Budget by \$50,000 to align with historical spending***

The Committee recommends reducing OLRB's NPS FY2022 budget (recurring funds) by \$50,000 to align resources with historical underspending. For FY2022, OLRB's proposed budget as submitted by the Mayor allocates \$221,000 in NPS funds, OLRB spent \$132,000 in FY2019 and \$78,000 in FY2020 in NPS funds. This action aligns the FY2022 budget with historical spending while retaining the overall increase in NPS funding.

### b. Policy Recommendations

#### ***1. Finalize agreements for expired or soon-to-expire compensation collective bargaining agreements and engage in collective bargaining whenever possible.***

OLRB should work to complete negotiations for the more than twenty agreements that are now expired or will soon expire.<sup>62</sup> Timely negotiation of compensation agreements is critical to positive labor-management relationships and reduces the negative financial and operational inefficiencies of a substantial backlog of agreements.

District law requires the timely negotiation and completion of compensation collective bargaining agreements and sets out certain timeframes. The process begins with the union or the District requesting negotiations 120 days to 90 days prior to the beginning of the new fiscal year.<sup>63</sup> The Code requires that negotiations be complete within 180 days after they have begun.<sup>64</sup> Negotiations cannot continue indefinitely; after 180 days, an automatic impasse may be declared by either party. An impasse is a formal acknowledgement of serious inability to come to mutual agreement. The impasse process is overseen by PERB, which appoints an arbitrator to issue an award to the parties based on their last best offers.<sup>65</sup> After settlement, the Mayor must transmit the agreement to the Council within 60 days, and the Executive must provide a financial plan that funds future fiscal years of multi-year compensation agreements.<sup>66</sup>

During its 2021 performance oversight hearing, OLRB reported that the agency was not then attempting to complete negotiations of expired or soon-expiring compensation agreements. It pointed to budget uncertainty in the District's post-pandemic fiscal recovery.

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<sup>62</sup> Office of Labor Relations and Collective Bargaining "Responses to Fiscal Year 2018-2019 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, questions 29 and 30 available at <https://dccouncil.us/wp-content/uploads/2021/02/OLRB-PO-Questions-2020-2021-Final.pdf>

<sup>63</sup> D.C. Code § 1-617.17(f)(1)(A)(i)

<sup>64</sup> D.C. Code § 1-617.17(f)(1)(B)

<sup>65</sup> D.C. Code § 1-617.17(f)(2)

<sup>66</sup> D.C. Code § 1-617.17(i)(2)

However, last year’s final BSA only froze salaries for a single fiscal year, FY2021.<sup>67</sup> That means that no statute precluded OLRCB from negotiating salary adjustments during the remainder of the four-year financial plan, covering FY2022 through FY2024, and OLRCB was in fact able to negotiate agreements covering those years. The Mayor’s FY2022 proposal does not freeze salaries or otherwise preempt OLRCB from effectively negotiating new collective bargaining agreements. However, the Committee is concerned that unforeseeable events can trigger fears of future economic uncertainty and derail collective bargaining negotiations for future agreements unnecessarily. The Committee recommends that OLRCB continue to negotiate collective bargaining agreements to completion whenever possible, and advise the Committee whenever the formation of new collective bargaining agreements is impossible.

The Committee is not recommending that the District enter into agreements that it lacks the authority to fulfill, but instead, recommends that OLRCB develop a strategy on how to successfully negotiate through uncertain financial environments. After all, there is always budget uncertainty as one can never know what the future holds. Furthermore, CBAs are required under statute to last at least 3 years, which necessarily includes future years.<sup>68</sup>

***2. Advise agency management to adhere to requirements to bargain, and be selective in litigating appeals of PERB orders.***

OLRCB must ensure agencies adhere to bargaining requirements even during the health emergency, and it should only carefully and selectively pursue litigation that has a very low chance of success or only under exceptional circumstances.

During the emergency, there have been several disputes between District agencies and labor unions in cases adjudicated before the Public Employee Relations Board (PERB). OLRCB has appealed all the PERB orders to District courts. The Council enacted legislation to expand “management rights”<sup>69</sup> during the public health emergency to allow

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<sup>67</sup> Fiscal Year 2021 Budget Support Act of 2020, Sections 1023 and 1024 apply directly. “Section 1023. Freeze on cost-of-living adjustments. Notwithstanding any other provision of law, rule, or collective bargaining agreement, an employee of a covered agency shall not receive a cost-of-living adjustment during the period **from October 1, 2020, through September 30, 2021** [emphasis added]. Nothing in this subtitle shall be construed to prohibit collective bargaining on non-compensation issues.” “Sec. 1024. Maintenance of Fiscal Year 2020 salary schedules and benefits. Notwithstanding any other provision of law, collective bargaining agreement, memorandum of understanding, side letter, or settlement, whether specifically outlined or incorporated by reference, **all Fiscal Year 2020 salary schedules of covered agencies shall be maintained during Fiscal Year 2021** and no increase in salary or benefits, including increases in negotiated salary, wage, and benefits provisions, and negotiated salary schedules, shall be provided in Fiscal Year 2021 from the Fiscal Year 2020 salary and benefits levels of covered agencies [emphasis added]. Available at <https://lims.dccouncil.us/Legislation/B23-0760>.

<sup>68</sup> D.C. Code § 1-617.17(g)

<sup>69</sup> See D.C. Official Code 1-617.08. Management rights are rights that are retained by management. Agencies must still negotiate with bargaining units over the implementation of those rights to the extent that non-management rights are impacted by the implementation of those management rights. See also D.C. Official Code 1-617.08(a)(6) specifying that management has the authority to “take whatever actions may be necessary to carry out the mission of the District government in emergency situations.”

the Mayor flexibility and greater efficiency in the District’s emergency response.<sup>70</sup> However, there is also a parallel right of District labor organizations to impacts and effects bargaining regarding the *implementation* of these rights, as well as the health and safety of employees as a mandatory subject of bargaining even during the emergency.<sup>71</sup> These rights have been affirmed by PERB, and as such, PERB ordered that agencies bargain over these matters. Specific personnel actions deemed to be management rights under the emergency law include redeployment of employees across agencies, modification of place and times of duty, and denying or rescinding leave.

OLRCB should inform management at the agencies under the personnel authority of the Mayor of their duty to bargain on both health and safety conditions and the impacts and effects of management rights, even during the public health emergency. OLRCB has reported to the Committee that all agencies that were the subject of the PERB orders are complying with the orders to bargain.

The Committee also recommends that OLRCB carefully review the legal arguments and applicable precedent to assess the chances of success before appealing PERB’s orders, to avoid unnecessary litigation costs. That is, OLRCB should not sue if the chances of winning are too low, as this wastes limited government resources. In fact, the OLRCB director described its lawsuits appealing the recent PERB decisions as “Hail Mary’s” as well as an attempt to get clarity on the exact contours of the law.<sup>72</sup> While the Committee does not take a position on the litigation, it is concerned that such a remote chance of winning may not be a good use of resources. It is also not clear whether or why the court would provide any more specific guidance than PERB, such that even a loss by the District would mean the lawsuit was of some value, rather than simply overturning or upholding the PERB decision.<sup>73</sup>

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<sup>70</sup> See B23-0718, the COVID-19 Response Emergency Amendment Act of 2020

<sup>71</sup> See PERB Case 20-U-24, *Fraternal Order of Police/Dept. of Corrections Labor Comm. v. Dist. of Columbia Dept. of Corrections* (April 6, 2020); PERB Case 20-U-30, *Washington Teachers’ Union, Local 6 v. Dist. of Columbia Public Schools* (July 8, 2020); and PERB Case 20-U-23, *Am. Fed’n of Gov’t Emp., Local 631 v. Dist. of Columbia Off. of Labor Rel. and Collective Bargaining* (March 31, 2020)

<sup>72</sup> Silverman, Elissa. (2021, February 23). *DCHR and OLRCB Performance Oversight Hearing* [Video File]. Retrieved from <https://www.facebook.com/CMElissaSilverman/videos/472572383746473>

<sup>73</sup> District Courts generally repeat PERB’s analysis and findings and do not find it necessary to render additional determinations because of limitations on the Court’s jurisdiction and a strong preference to uphold any rational PERB determination. D.C. Official Code § 1-617.13(b) District law limits the arguments that may be heard in District Court appeals from the Board’s orders to “defenses and objections...first urged by the Board”. Novel arguments not raised to the Board are therefore disallowed on appeal. See also *Drivers, Chauffeurs, & Helpers Local Union No. 639 v. Dist. of Columbia*, 631 A. 2d 1205, 1216 (D.C. 1993) indicating that the only proper reversal of the Board by District Courts is if the decision made by the Board is “rationally indefensible.”

### ***3. Train the Metropolitan Police Department on the Douglass Factors and “90 day rule” procedures to ensure personnel decisions are not overturned due to technicalities***

One of most common types of labor disputes in the District regards employee discipline, and there are frequent procedural problems with actions taken by the Metropolitan Police Department (MPD) specifically. When disciplining employees, MPD must apply two procedures, the “Douglas factors” and a “90 day rule.” The Douglass factors are a set of factors derived from case law applicable to all agencies. Agencies must utilize the Douglass factors to analyze and make decisions about employee discipline to ensure that discipline is appropriate to the matter and applied equitably to all employees. The 90-day rule is derived from a statutory requirement that the District’s fire and police departments must initiate employee discipline within 90 days of knowledge of the misconduct of the employee.<sup>74</sup>

If the Douglass factors and the 90 day rule are not applied appropriately, the disciplinary actions are likely to be determined by an arbitrator or court to be contrary to the terms of the collective bargaining agreement and District law. In those cases, the arbitrator will have no choice but to overturn the disciplinary action by the agency—that is, the disciplinary action will be overturned on the basis of a procedural matter, rather than the merits of the disciplinary action. This happens not infrequently with disciplinary actions taken by MPD. Many times, when the police union challenges a disciplinary action by MPD, an arbitrator rules that the action was invalid because the agency didn’t follow the Douglass Factors or 90-day rule. However, MPD seems to almost always challenge the arbitrators’ decisions at PERB and then in multiple levels of court, despite the fact that there are no grounds to overturn the decisions.<sup>75</sup> PERB is then obligated to spend its resources to defend the arbitrators’ decisions in two levels of court, and again to enforce the decision if MPD does not comply.<sup>76</sup>

MPD is under the personnel authority of the Mayor, and all agencies under the personnel authority of the Mayor are advised by OLRCB in labor relations matters. During performance oversight, Director Maxwell testified that that OLRCB has training materials on the Douglass factor and the 90 day rule. The Committee recommends OLRCB conduct thorough training with MPD managers and others involved in the disciplinary process to ensure that they follow these procedural requirements in the future, and thus do not jeopardize otherwise legitimate personnel actions due to procedural failings.

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<sup>74</sup> D.C. Official Code § 5-1031

<sup>75</sup> D.C. Official Code 1-605.02(6) permits the Board to modify, set aside, or remand a grievance arbitration award in three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means. See PERB Case 21-A-07

<sup>76</sup> See D.C. Official Code § § 1-605.02(16) permitting Board to seek judicial enforcement; see also D.C. Official Code § 1-617.13(b) specifying that the Superior Court of the District of Columbia has the same jurisdiction to “grant the board such order of enforcement as in the case of a request by the Board.”

The Committee also urges OLRCB to work with agencies like MPD to ensure they are not appealing cases that cannot be won; this is a waste of government resources. Finally, OLRCB should make sure that it includes costs related to MPD’s ARR litigation in OLRCB’s future performance oversight responses on agency litigation costs.

**4. Submit CBAs to Council within statutorily required timeframe of 60 days.**

District law requires the Mayor to transmit all compensation agreements to the Council within 60 calendar days after the parties have reached an agreement.<sup>77</sup> At that time, the Council has a 30 day passive review period. The contracts cannot be executed until the Council approves them. However, the Council cannot conduct its review until the Executive submits the CBAs.

Not infrequently, the District transmits CBAs to the Council long after 60 days have passed. This delays the execution of the contracts, and particularly any raises, which often are retroactive to begin with. That is, workers have already been waiting, and they must wait even longer after an agreement is reached.

The Committee is aware that there are several procedural steps that happen after an agreement is reached and before submission; however, 60 days should be ample time. OLRCB should take steps to move through the process expeditiously and submit the agreements within the 60-day deadline. If OLRCB will not meet this requirement, it should tell the Committee and union(s) about the delay and explain the reasons.

**3. FY 2022-2027 CAPITAL BUDGET**

OLRCB has no capital budget for FY 2022-2027.

**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Summary of Fiscal Year 2022 Operating Budget Recommendation**

<b>Summary of Budget Changes for OLRCB (AK0)</b>						
<b>Program</b>	<b>Activity</b>	<b>CSG</b>	<b>Comments</b>	<b>Frequency</b>	<b>FY2021 recommendation</b>	<b>FY2022 recommendation</b>
3000-Labor Relations and Collective Bargaining	3005-Labor Relations and Collective Bargaining	40-Other services	Aligns budget with historical underspending	Recurring		(\$50,000)

**b. Policy Recommendations**

1. Finalize agreements for expired or soon-to-expire compensation collective bargaining agreements.

<sup>77</sup> D.C. Code § 1-617.17(i)(1)

2. Advise agency management to adhere to requirements to bargain, and be selective in litigating appeals of PERB orders.
3. Train the Metropolitan Police Department on the Douglass Factors and “90 day rule” procedures to ensure personnel decisions are not overturned due to technicalities.
4. Submit CBAs to Council within statutorily required timeframe of 60 days.



## G. PUBLIC EMPLOYEE RELATIONS BOARD (CG0)

### 1. AGENCY MISSION AND OVERVIEW

The mission of the Public Employee Relations Board (“PERB”) is to resolve labor-management disputes between agencies of the District government, labor organizations representing employees of various District government agencies, and employees covered by the Comprehensive Merit Personnel Act.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

#### Fiscal Year 2022 Operating Budget, By Revenue Type

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local Fund	\$1,117,441	\$1,295,666	\$1,365,584	(\$50,000)	\$1,314,584	1.46%
<b>Gross Funds</b>	<b>\$1,117,441</b>	<b>\$1,295,666</b>	<b>\$1,365,584</b>	<b>(\$50,000)</b>	<b>\$1,314,584</b>	<b>1.46%</b>

#### Fiscal Year 2022 Full-Time Equivalents, By Revenue Type

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local Funds	6.0	8.0	8.0	0.00	8.00	0.00%
<b>Total</b>	<b>6.0</b>	<b>8.0</b>	<b>8.0</b>	<b>0.00</b>	<b>8.00</b>	<b>0.00%</b>

#### Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)

<i>Activity</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Approved</i>	<i>Mayor's FY 2022 Proposed</i>	<i>Committee Variance</i>	<i>Committee's FY 2022 Recommendation</i>	<i>Committee Percent Change</i>
<b>1000 - AGENCY MANAGEMENT</b>						
1040 - INFORMATION TECHNOLOGY	\$24,880	\$24,655	\$26,035	\$0	\$26,035	5.60%
1090 - PERFORMANCE MANAGEMENT	\$207,488	\$218,615	\$219,525	\$0	\$219,525	0.42%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$232,368</b>	<b>\$243,270</b>	<b>\$245,560</b>	<b>\$0</b>	<b>\$245,560</b>	<b>0.94%</b>
<b>2000 - ADJUDICATION</b>						
2001 - LEGAL SUPPORT	\$419,598	\$565,562	\$564,017	(\$50,000)	\$514,017	(9.11%)
2002 - COURT APPEALS	\$436,375	\$455,634	\$523,807	\$0	\$523,807	14.96%
2003 - PUBLIC EMPLOYEE RELATIONS BOA	\$29,100	\$31,200	\$31,200	\$0	\$31,200	0.00%
<b>TOTAL PROGRAM FUNDS</b>	<b>\$885,073</b>	<b>\$1,052,396</b>	<b>\$1,119,024</b>	<b>(\$50,000)</b>	<b>\$1,069,024</b>	<b>1.58%</b>
<b>TOTAL AGENCY FUNDS</b>	<b>\$1,117,441</b>	<b>\$1,295,666</b>	<b>\$1,364,584</b>	<b>(\$50,000)</b>	<b>\$1,314,584</b>	<b>1.46%</b>

### Committee Analysis and Recommendations

#### a. Budget Recommendations

##### *1. Reduce the NPS Budget by \$50,000 to align with historical spending*

The Committee recommends reducing PERB’s NPS FY2022 budget (recurring funds) by \$50,000 to align resources with historical underspending. For FY2022, PERB’s proposed budget as submitted by the Mayor allocates \$309,000 in NPS funds, PERB spent

\$252,000 in FY2019 and \$242,000 in FY2020 in NPS funds. This action aligns the FY2022 budget with historical spending while retaining the overall increase in NPS funding.

***2. Reduce the FY2021 PS budget to realize vacancy savings of \$23,000***

The Committee recommends reducing the agency's FY2021 budget (one-time funds) by \$23,000 due to vacancy savings for one position that has been vacant since November 13, 2020, and will not be filled in FY2021.

***3. Reduce the FY2021 NPS budget by \$40,000 due to underspending.***

The Committee recommends reducing the agency's FY2021 NPS budget (one-time funds) by \$40,000 from Comp Service Group 40. PERB has only spent \$44,000 of a \$100,000 budget with three months remaining in the fiscal year.

**b. Policy Recommendations**

***1. Improve the mediation success rate by improving processes, training staff to conduct mediations, and setting a goal for successful mediations***

PERB strongly recommends to parties in most cases that they attempt to settle the dispute through mediation, although mediation is not required by law. Mediation can settle cases more quickly and without a sometimes lengthy quasi-judicial process involving multiple briefs and hearings. PERB allocates funds to hire outside labor experts to conduct mediations on PERB's behalf. Most mediations are completed within one or two days when they occur and provide litigants the opportunity to become familiar with the opposing party's proposals and negotiate a mutually agreeable compromise. The agency is especially supportive of mediation in cases where the parties have engaged in very little discussion prior to appearing before PERB.

The Committee is supportive of the labor relations benefits of mediation. Several other states' public employee relations boards have mediation programs.<sup>78</sup> However, the Committee is concerned with the low success rate and inefficiencies of PERB's current mediation program. In FY2020 and in the first quarter of FY2021, PERB was successful in 12 of 47 mediations, a success rate of less than 30%. In FY2019, PERB set a goal to settle 25% of cases by mediation, but it settled just 8.5% of cases.<sup>79</sup> While PERB described

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<sup>78</sup> The state of New York permits parties to choose between arbitration led by contractors or staff mediators, see <https://perb.ny.gov/voluntary-grievance-arbitration-staff-grievance-med-arb/>; California contracts with arbitrators to perform mediation services, see <https://perb.ca.gov/state-mediation/>; Maryland offers mediation services and requires parties to provide a brief statement of the reason for declining mediation led by any disinterested person, including a member of the Board or the Federal Mediation and Conciliation Services, see <https://laborboards.maryland.gov/wp-content/uploads/sites/9/2014/01/SLRBRegsJuly20101.pdf>

<sup>79</sup> Public Employee Relations Board "Responses to Fiscal Year 2018-2019 Performance Oversight Questions," Submitted to the Committee on Labor and Workforce Development, page 5 available at <https://dccouncil.us/wp-content/uploads/2019/02/PERB-Performance-Oversight-Questions-and-Exhibits-2019-NEW-VERSION-02-06-19-1.pdf>.

the 25% goal as “unrealistic,” it appears to have exceeded that goal in FY2018.<sup>80</sup> In FY2021, PERB’s mediation goal is to be successful in 12/47 mediations, which is less than 30%. However, that still means most attempts at mediation did not succeed and may have served to delay eventual resolution of the dispute. PERB should strive to significantly improve the mediation program or discontinue it.

To increase the success rate of mediations and decrease mediation costs, PERB should try to determine the likelihood of success of mediation earlier in the dispute process and avoid mediations that are unlikely to succeed. PERB should allow parties to easily decline mediation by providing a brief statement explaining the denial. PERB should also seek to inform the parties of the mediation process in the first communications sent to the parties after filing. In cases where both parties are represented by counsel, PERB may find it helpful to require a pre-settlement conference brief from the parties prior to beginning mediation which details the boundaries of each litigant’s settlement position and goals. Additional information exchanged early in the process is helpful to all parties in determining the likelihood of success and filtering out the cases in which there is little hope of success.

The Committee also encourages the continuation of PERB’s efforts to train its own attorneys as mediators and begin staff conducted mediations as soon as possible. The combination of local expert knowledge of District labor relations issues and PERB’s role, as well as the standardized mediation training can provide a much-needed employee retention benefit with expansion of the agency’s mediation expertise. The Committee hopes this will be reflected in the greater success of the mediation program.

Finally, the Committee encourages PERB to set a mediation success goal for FY2022 of at least 50%. Without a goal, any result is acceptable and the identification of trends and development of analysis is made more difficult.

**2. *Post PERB decisions online within 5 business days and submit to Register within 30 calendar days.***

District law requires PERB to publish each order, decision, or opinion in the District of Columbia *Register* within 60 days of issuance.<sup>81</sup> PERB also posts these materials on its website in a searchable database.

During the public health emergency, PERB experienced technical and human capital challenges that delayed the publishing of decisions and orders on the agency’s website and in the *Register*. Because the public should have timely access to decisions and orders, PERB must take steps to ensure that it posts the materials sooner. PERB should ensure that multiple staff members are trained to publish decisions and orders on the agency website and in the *Register*. PERB should also establish a process to ensure they are posted

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<sup>80</sup> Public Employee Relations Board “Attachments to Fiscal Year 2018-2019 Performance Oversight Questions,” Submitted to the Committee on Labor and Workforce Development, page 2 available at <https://dccouncil.us/wp-content/uploads/2020/02/Attachments-combined-PERB-PO-2020.pdf>.

<sup>81</sup> D.C. CODE § 1-605.04

online within five business days of the decision and strive to publish in the *Register* within 30 days.

### **3. *Boost employee retention with financial and career development incentives.***

In PERB's 2021 performance oversight materials, the agency reported that a third of its staff, including tenured attorney advisors, left the agency last year, in part due to non-competitive pay. In response, PERB increased the compensation of remaining employees.

PERB should require any employee who receives a significant bonus as a retention tool to commit to a specified term of employment after receiving the bonus. Conditioning the bonus makes achievement of the intended retention goal more likely.

There are also opportunities to develop attorneys as mediators and arbitrators through investing in certificate and credit programs for employee development and training. These are affordable programs that will help with retention as employees are more likely to continue employment if they are provided opportunity to acquire marketable in-demand education and training.<sup>82</sup> Additionally, many programs that once were in person and would require allocating funds for travel and transportation, are now remote due to the pandemic. PERB should review the current offerings and offer relevant training opportunities to as many employees as possible.

### **4. *Track the litigation costs and essential case data associated with Arbitration Review Requests.***

One type of case before the PERB is an Arbitration Review Request (ARR). ARRs are requests made by either party to a collective bargaining agreement asking PERB to review an arbitration decision made pursuant to an arbitration clause in the agreement. Parties may then appeal the PERB decision to two layers of court. PERB must hire outside counsel to defend its decisions in court. If an arbitration award is not overturned, but the agency refuses to comply with PERB's order, the union may request that PERB seek judicial enforcement of its decision.<sup>83</sup> PERB must also hire outside counsel and invest further resources to seek enforcement in court.

In practice, most ARRs come from agencies.<sup>84</sup> ARR cases are rarely overturned by the board or by District courts because District law only permits the reversal of an arbitrator's decision in three narrow circumstances: (1) if an arbitrator was without or exceeded his or her jurisdiction (2) if the award was contrary to law and public policy; or

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<sup>82</sup> Training at the Federal Mediation and Conciliation Service (FMCS) are provided year round and available at <https://www.fmcs.gov/eventsregister/becoming-a-labor-arbitrator-mayjune-2021/> as of June 24, 2021 (marketable mediation training is about \$1000, arbitration is \$2700).

<sup>83</sup> See D.C. Code § 1-605.02; see also District of Columbia Municipal Regulations 6-B560 which provides that a "prevailing party may petition the Board to seek judicial process to enforce an order of the Board If the respondent in the case has failed to comply with the order."

<sup>84</sup> More than half of the ARR cases filed with PERB between January 15, 2020, and January 15, 2021, were initiated by agencies. See list showing all ARR cases filed in this time period at [file:///Users/rgrant/Downloads/PERB%20Decisions%20%20PERB%20\(2\).pdf](file:///Users/rgrant/Downloads/PERB%20Decisions%20%20PERB%20(2).pdf)

(3) if the award was procured by fraud or other unlawful means.<sup>85</sup> Many ARR's are initiated by the Metropolitan Police Department, which seeks to reverse arbitration awards at every level possible, even when none of the three reversal bases are met.<sup>86</sup> As a result, the ARR's almost always fail.

The significant cost to PERB for defending its decisions in predictable (losing) ARR's is troubling to the Committee. PERB should track ARR litigation and associated costs, along with agency or other patterns and useful information. It should regularly report the data and any analytical findings to the Committee. This information would help evaluate the District's use of the ARR process at PERB and in District courts and develop potential solutions to avoid unnecessary costs.

**3. FY 2022-2027 CAPITAL BUDGET**

PERB has no capital budget for FY 2022-2027.

**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Summary of Fiscal Year 2022 Operating Budget Recommendations**

<b>Summary of Budget Changes for PERB (CG0)</b>						
<b>Program</b>	<b>Activity</b>	<b>CSG</b>	<b>Comments</b>	<b>Frequency</b>	<b>FY2021 recommendation</b>	<b>FY2022 recommendation</b>
2000 Adjudication	2001 Legal Support	40 Other Services	Historical Underspending of NPS funds	Recurring		(\$50,000)
2000 Adjudication	2001 Legal Support	40 Other Services	Align budget with planned spending	One-time	(\$40,000)	
2000 Adjudication	2002 Court Appeals	11 Regular Pay-Continuing Full Time	Align budget with planned spending	One-time	(\$23,000)	

**b. Policy Recommendations**

1. Improve the mediation success rate by improving processes, training staff to conduct mediations, and setting a goal for successful mediations.
2. Post PERB decisions online within 5 business days and submit to Register within 30 calendar days.
3. Boost employee retention with financial and career development incentives.  
Track the litigation costs and essential case data associated with Arbitration Review Requests.

<sup>85</sup> D.C. Code § 1-605.02(6)

<sup>86</sup> MPD initiated or was involved in over 200 ARR's in 2020 alone, not counting enforcement actions filed to enforce the ARR's. See [file:///Users/rgrant/Downloads/PERB%20Decisions%20%20PERB%20\(3\).pdf](file:///Users/rgrant/Downloads/PERB%20Decisions%20%20PERB%20(3).pdf)

## H. UNEMPLOYMENT COMPENSATION FUND (BH0)

### 1. AGENCY MISSION AND OVERVIEW

The Unemployment Compensation Fund (UC Fund) is to provide unemployment compensation benefits to former District government employees who have been separated from employment through no fault of their own.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	\$7,946,799	\$5,480,390	\$5,480,390	0	\$5,480,390	0
<b>Gross Funds</b>	<b>\$7,946,799</b>	<b>\$5,480,390</b>	<b>\$5,480,390</b>	<b>0</b>	<b>\$5,480,390</b>	<b>0</b>

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	0	0	0	0	0	
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	

<b>Fiscal Year 2022 Operating Budget, By Program (Gross Funds)</b>							
<i>Program</i>		<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
1000	Unemployment Compensation Fund	\$7,946,799	\$5,480,390	\$5,480,390	0	\$5,480,390	0
	<b>Total</b>	<b>\$7,946,799</b>	<b>\$5,480,390</b>	<b>\$5,480,390</b>	<b>0</b>	<b>\$5,480,390</b>	<b>0</b>

### Committee Analysis and Recommendations

#### a. Budget recommendations

The Committee recommends approving the UC Fund's FY 2022 budget as proposed.

### 3. FY 2022-2027 CAPITAL BUDGET

The UC Fund has no capital budget for FY 2022-2027.

**4. COMMITTEE RECOMMENDATIONS**

**a. Fiscal Year 2022 Operating Budget Recommendations**

The Committee recommends approving the UC Fund's FY 2022 budget as proposed.

## I. UNEMPLOYMENT INSURANCE TRUST FUND (UI0)

The Unemployment Insurance Trust Fund, administered by the Department of Employment Services (DOES), represents the proceeds from unemployment taxes paid by private sector employers and reimbursements from the District and federal governments deposited in the Unemployment Trust Fund (the “UI Fund”). The Fund is used to pay benefits for private and non-District government<sup>87</sup> public sector employees during periods of unemployment. Payments include transfers to other governments to reimburse unemployment benefits paid to District residents.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Enterprise and Other	\$597,492,133	\$464,778,369	\$262,315,936	\$0	\$262,315,936	-43%
Federal Grant Fund	\$96,036,698	0				
Federal Payments	\$873,655,041	\$215,292,455	0	\$0		
<b>Gross Funds</b>	<b>\$1,567,183,871</b>	<b>\$680,070,824</b>	<b>\$262,315,936</b>	<b>\$0</b>	<b>\$262,315,936</b>	<b>-61%</b>

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Enterprise and Other	0	0	0	0	0	n/a
Federal Grant Fund	0	0	0	0	0	n/a
Federal Payments	0	0	0	0	0	n/a
<b>Gross Funds</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/a</b>

<b>Fiscal Year 2022 Operating Budget, By Program (Gross Funds)</b>							
<i>Program</i>		<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
2000	Benefits Trust Fund	\$1,567,183,871	\$680,070,824	\$262,315,936	0	\$262,315,936	-61%
	<b>Total</b>	<b>\$1,567,183,871</b>	<b>\$680,070,824</b>	<b>\$262,315,936</b>	<b>0</b>	<b>\$262,315,936</b>	<b>-61%</b>

<sup>87</sup> District government employees unemployment compensation funds are housed in BH0 the Unemployment Compensation Fund; See Chapter II.H.



## Budget Recommendations

The Committee recommends approving the Unemployment Insurance Trust Fund's (UITF) FY 2022 budget as proposed. However, the Committee has significant concerns about the FY 2021 changes proposed by the Mayor. In her FY 2021 supplemental budget, which was not referred to this Committee, the Mayor proposes moving a total of \$114.5 million from the Universal Paid Leave Fund to the Unemployment Insurance Trust Fund. This money would go towards three objectives: avoiding a loan in FY 2022 (\$49 million), deferring an increase in the unemployment compensation payroll tax until FY 2023 (\$32.5 million), and generally increasing the amount of the reserves in the trust fund (\$32.99 million).

The Committee certainly appreciates that the health of the UITF is important. Unemployment insurance (UI) is a crucial part of the District's safety net. Having a healthy balance in the UITF ensures the District will have enough money in reserve for the next recession and can continue to provide robust benefits to unemployed workers.

However, the Committee disagrees with the decision to move funding from the Universal Paid Leave Fund to start refilling the UITF. First, the District should not put aside nearly \$50 million just to avert potentially taking out a loan in FY 2022. It is true that the UITF is significantly depleted and may require a loan from the federal government to continue to pay benefits later next year. But the size of the potential loan is likely very small, only \$49 million. It is better for the District to use that \$49 million to support struggling workers and businesses now and pay back the small loan over the coming years, after the District has recovered economically. Taking out a loan for UI benefits is not unusual or unheard of. As of the last week of June 2021, nineteen states have had to take out a federal UI loan, all for significantly more sums than the District is likely to need. And, it is not clear that the District will actually need a loan, as the economy recovers and fewer workers are making UI claims.

Second, setting aside \$32.5 million to avert a tax increase two years from now is not a strategic and best use of District taxpayer dollars. Again, the District's workers and businesses would be far better off with the additional fiscal stimulus now, instead of the slightly lower tax in the future. For example, how does this help a restaurant that hasn't been fully open for more than a year, had to lay off workers, and owes tens of thousands in back rent now? Many businesses will not be open in 2022 to benefit from the lower taxes, unless the District helps them in 2021.

The Office of the Chief Financial Officer has been clear that the District needs to increase the revenues coming into the UITF, to prepare for a future recession that will come in the next eight to ten years. This \$32.5 million proposed by the Mayor will only defer that tax increase for one year, not permanently.

And third, the final tranche of money put into the UITF, worth \$32.99 million, has no discernable purpose. It is not to defer a loan or defer a future tax increase. It is not to pay benefits in the next year. In fact, there is no evidence it will be used anytime in the

next decade. This is not a strategic deployment of taxpayer dollars. The District should instead use this money now to either expand its support of small and local businesses that have lost significant amounts of revenue in the pandemic, or expand the benefits provided by the Universal Paid Leave program in FY 2022. Both would return the money to the economy and help the District's recovery, as opposed to having the funds sit unused in a bank account for years.

As mentioned earlier, the Committee understands the CFO's desire for a strong UITF. The Committee will be working on legislation for later this Council period to reform the District's unemployment insurance tax system, to strengthen and update the system for the decades to come.

**3. FY 2022-2027 CAPITAL BUDGET**

The UI Fund has no proposed capital budget for FY 2022-2027.

**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Fiscal Year 2022 Operating Budget Recommendations**

1. The Committee recommends approving the UI Trust Fund's FY 2022 budget as proposed.

## J. UNIVERSAL PAID LEAVE FUND (UL0)

### 1. AGENCY MISSION AND OVERVIEW

The mission of the Universal Paid Leave agency (UPL) is to provide paid-leave benefits under the Universal Paid Leave Act (UPLA) to private employees in the District for up to eight weeks of parental leave, six weeks of family leave, and two weeks of medical leave for every fifty-two weeks worked, thereby contributing to and increasing the quality of life in the Washington, DC, metropolitan area. This is a new agency created in the FY2021 budget.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

#### Fiscal Year 2022 Operating Budget, By Revenue Type

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Enterprise and Other Funds	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)
<b>Gross Funds</b>	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)

#### Fiscal Year 2022 Full-Time Equivalents, By Revenue Type

<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Enterprise	0	0	0	0	0	N/A
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

#### Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)

<i>Program</i>		<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
<b>1000</b>	<b>Universal Paid Leave</b>	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)
6000	Universal Paid Family Leave Fund	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)
	<b>Total</b>	\$0	\$292,123,772	\$105,560,000	\$59,701,000	\$165,261,000	(43.43%)

### Committee Analysis and Recommendations

#### a. Budget Recommendations

##### *1. Increase resources available from fund for payment of planned expenditures (\$59,701,000)*

The Mayor's proposed budget for UPL fund expenses is \$105.6 million in FY2022. However, this amount appears to be in error as it does not cover the amount of the Mayor's proposed legislative changes or underlying benefits. According to CFO estimates for

necessary budget in FY2022, the Mayor's proposal should have budgeted a total of \$280,724,879 million, or \$175,164,879 million more than proposed. The net change of the Committee's proposal is an additional \$59,701,000, for a total of \$340,425,879 million operating budget in FY2022. The Committee recommends that the Council correct the original budget proposal error when it finalizes the budget, by loading the missing \$175,164,879.

Furthermore, the Committee makes several recommendations in BSA legislation to enhance and expand paid leave benefits and provide greater access through programmatic changes. Additionally, the Committee rejects the Mayor's proposed one-time, untargeted business tax cut, which would have deprived the fund of \$168 million in revenue in FY2022. The Committee has also made legislative changes that reduce expenditures by \$38.25 million.

The Committee's prime objective in the FY2022 budget is to help the business and workers who were most negatively impacted by the coronavirus pandemic. As such, the Committee recommends the following changes for FY2022, many of which are also reflected in BSA legislation (see Chapter IV.A.2 for further discussion).

- Expanded medical leave benefits from 2 weeks to up to 6 weeks (\$97,951,000)
- Two weeks of pre-natal leave benefits in FY2022 (\$7.75 million)
- Targeted grants to businesses through DMPED for small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses during the public health emergency and need assistance with paying back rent or other costs of reopening. (\$30 million)
- Payment of \$1,500 each to 10,000 District residents who endured extraordinarily long times before receiving their unemployment compensation payments. (\$15.5 million)
- Additional funds for payments to workers excluded from unemployment insurance and federal stimulus payments, including undocumented workers, cash economy workers, and returning citizens (\$20 million)
- Incentive payments for unemployed District residents to complete STAY DC applications (\$5.5 million)
- Implementation of the Making Unemployment Compensation Nontaxable Amendment Act Budget Support Act subtitle to permanently make unemployment benefits received by District residents exempt from local income taxes, (\$28.6 million over 4-year plan)
- Additional flexible funding for survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking (\$3 million)
- Establishment of the Workplace Rights Grants Program at the Office of the Attorney General to provide education and assistance to workers on paid leave (\$250,000)
- Programmatic changes that do not incur a fiscal impact, including removal of the waiting week, providing benefits to workers regardless of employment status, allowing retroactive leave claims, and expanding the wage base used to determine the amount of benefits for 1 year post-pandemic.

**3. FY 2022-2027 CAPITAL BUDGET**

Universal Paid Leave Fund has no capital budget for FY 2022-2027.

**4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

**a. Fiscal Year 2022 Operating Budget Recommendations**

The Committee recommends utilizing additional resources from the UPL Fund in the amount of \$59,701,000 for planned expenditures, which would bring the total operating budget in FY2022 to \$165,261,000.

## K. WORKFORCE INVESTMENTS (UP0)

### 1. AGENCY MISSION AND OVERVIEW

The mission of Workforce Investments is to fund compensation increases for nonunion and union District employees and any costs of reform initiatives.

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	\$0	0	\$72,449,250	0	0	N/A
<b>Gross Funds</b>	<b>\$0</b>	<b>0</b>	<b>\$72,449,250</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
Local	\$0	0	\$72,449,250	0	0	N/A
<b>Gross Funds</b>	<b>\$0</b>	<b>0</b>	<b>\$72,449,250</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

<b>Fiscal Year 2022 Operating Budget, By Program (Gross Funds)</b>						
<i>Program</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
1000 Workforce Investments	\$0	0	\$72,449,250	0	0	N/A
<b>Total</b>	<b>\$0</b>	<b>0</b>	<b>\$72,449,250</b>	<b>0</b>	<b>0</b>	<b>N/A</b>

### Committee Analysis and Recommendations

#### a. Budget Recommendations

The Committee recommends approval of the Mayor's FY2022 proposed budget.

### 3. FY 2022-2027 CAPITAL BUDGET

Workforce Investments has no capital budget for FY 2022-2027.

### 4. SUMMARY OF COMMITTEE RECOMMENDATIONS

#### a. Fiscal Year 2022 Operating Budget Recommendations

The Committee recommends approval of the Workforce Investments Fund FY2022 budget as proposed by the Mayor.

## L. WORKFORCE INVESTMENT COUNCIL (PART OF GW0, DEPUTY MAYOR FOR EDUCATION)

### 1. AGENCY MISSION AND OVERVIEW

The Workforce Investment Council (WIC) provides strategic guidance, coordination, and oversight of the District’s workforce development system, including the federal Workforce Innovation and Opportunity Act (WIOA). The WIC’s budget is housed within the budget of the Deputy Mayor for Education. The WIC is led by a Board, for which membership requirements are laid out in WIOA and District law. Board members are appointed by the Mayor. The Board serves as both the State Workforce Development Board and Local Workforce Development Board, as defined by WIOA, which involve oversight, accountability, and operational responsibilities, such as development of strategies and policies, dissemination of information, review and evaluation of programs, operational input, technical assistance, and recommendations on the District’s workforce development system.<sup>88</sup>

### 2. FISCAL YEAR 2022 OPERATING BUDGET

<b>Fiscal Year 2022 Operating Budget, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
LOCAL FUND	\$2,013,289	\$4,684,548	\$3,432,028	\$500,000	\$3,932,028	(16.06%)
FEDERAL PAYMENTS	\$0	\$0	\$0	\$16,796,312	\$16,796,312	#DIV/0!
OPERATING INTRA-DISTRICT FUNDS	\$1,407,669	\$1,401,831	\$1,520,741	\$0	\$1,520,741	8.48%
FEDERAL PAYMENTS	\$0	\$0	\$0	\$4,563,000	\$4,563,000	#DIV/0!
TOTAL GROSS FUNDS	\$3,420,958	\$6,086,379	\$4,952,769	\$21,859,312	\$26,812,081	340.53%

<sup>88</sup> Workforce Innovation and Opportunity Act, Title 32 USC Section 3111 defines state boards, Title 32 USC 3122 defines local boards. The WIC is established and assigned responsibility to carry out functions of both state and local boards under WIOA in D.C. Office Code § 32–1603(a).

<b>Fiscal Year 2022 Full-Time Equivalents, By Revenue Type</b>						
<i>Fund Type</i>	<i>FY 2020 Actual</i>	<i>FY 2021 Approved</i>	<i>FY 2022 Proposed</i>	<i>Sum of Committee Variance</i>	<i>Committee Approved</i>	<i>% Growth over FY2021</i>
LOCAL FUND		10.61	8.97	0.00	8.97	(15.46%)
FEDERAL PAYMENTS		0.00	0.00	4.00	4.00	
OPERATING INTRA-DISTRICT FUNDS		3.39	3.93	0.00	3.93	15.93%
FEDERAL PAYMENTS		0.00	0.00	2.00	2.00	
<b>TOTAL FTE</b>		<b>14.00</b>	<b>12.90</b>	<b>6.00</b>	<b>18.90</b>	<b>35.00%</b>

<b>Fiscal Year 2022 Operating Budget, By Program and Activity (Gross Funds)</b>							
<i>Activity</i>	<i>FY 2020 Actuals</i>	<i>FY 2021 Approved</i>	<i>Mayor's FY 2022 Proposed</i>	<i>Committee Variance</i>	<i>Committee's FY 2022 Recommendation</i>	<i>Committee Percent Change</i>	
<b>3000 - WORKFORCE INVESTMENT</b>							
3012 - WORKFORCE INVESTMENT	\$2,573,854	\$4,834,184	\$4,766,799	\$21,859,312	\$26,626,111	450.79%	
3013 - WORKFORCE INVESTMENT COUNCI	\$969,811	\$1,252,195	\$185,970	\$0	\$185,970	(85.15%)	
<b>TOTAL PROGRAM FUNDS</b>	<b>\$3,543,664</b>	<b>\$6,086,379</b>	<b>\$4,952,769</b>	<b>\$21,859,312</b>	<b>\$26,812,081</b>	<b>340.53%</b>	
<b>TOTAL AGENCY FUNDS</b>	<b>\$3,420,958</b>	<b>\$6,086,379</b>	<b>\$4,952,769</b>	<b>\$21,859,312</b>	<b>\$26,812,081</b>	<b>340.53%</b>	

## Committee Analysis and Recommendations

### a. Budget Analysis and Recommendations

- 1. Fund and implement BSA legislation to invest in UDC Community College, Division of Workforce Development and Lifelong Learning and community training providers to expand occupational training opportunities in IT and nursing. (\$11,973,302 over three years)*

The Committee recommends the WIC work with the UDC Community College (UDC-CC) to fund and expand training opportunities for District residents at UDC-CC, the Division of Workforce Development and Lifelong Learning (WDLL) at UDC-CC and community training providers. Over 80,000 District residents lost employment due to the Coronavirus health emergency. As the District pivots to recovery efforts, many of the residents displaced will need to reskill or upskill for new careers. To appropriately support residents interested in training, the District needs to scale-up the number of training providers. Currently, the WIC maintains a list of eligible training providers (ETPL) approved to contract with District government for occupational training with federal WIOA grant funds. There are only 14 providers on the list and not all have a contract with District government. In PY2019, the American Jobs Centers (AJC) made a total of 111 referrals to ETPL organizations for training and not all of those individuals enrolled or completed their program. No participants were referred in PY2020. The District needs significantly more capacity to serve the newly unemployed residents in addition to those unemployed or unemployed prior to the pandemic or in need of a higher-paying job.



To expand the capacity of the District's occupational training providers, the Committee recommends a BSA subtitle to fund enhancements to and expansion of UDC, UDC-CC, and the division of WDLL nursing care and information technology courses. Additionally, the legislation includes funding for grants to community training providers in nursing care and information technology.

The DC Nurse Education Enhancement Amendment Act of 2021 provides \$2,232,313 to UDC, UDC-CC, the WDLL at UDC-CC and community training providers to train District residents as certified nursing assistants (CNA), home healthcare aides (HHA), licensed practical nurses (LPN) and registered nurses (RN). The District's nursing care hiring demands are greater than workers available in the District. All nurse training programs must be approved by the DC Board of Nursing. Currently, there are seven approved CNA programs, seven approved HHA programs, and seven approved LPN and RN programs. Advocates testified to the Committee during performance and budget oversight hearings on the dire need to train and hire many more CNAs and HHAs. To meet this need, the Committee recommends the DC Nurse Education Enhancement Amendment Act of 2021. See Chapter IV.B.3 for further information on this subtitle.

Additionally, the IT Community Training and Advisory Board Establishment Act of 2021 provides \$2,970,313 to UDC-CC, the WDLL at UDC-CC and community training providers to train District residents in IT credentials informed by an IT Industry Advisory Board. The impact of the Coronavirus public health emergency pushed schools, work, and most services to a virtual platform. As a result, the demand for technology support increased across all sectors of business, with a shortage of skilled worker supply. The shortage of IT workers combined with the arrival of Amazon headquarters (HQ2) in Northern Virginia, creates a perfect scenario for preparing District residents for jobs available now and in the future. To ensure the District's workforce system is prepared and readied for hire, the Committee recommends legislation to meet the hiring needs of the information technology sector. The legislation requires the WIC to establish and fund an Information Technology Investment Program at the UDC-CC and WDLL at UDC-CC, and community training providers. The program will be informed by an Information Technology Advisory Board (IT-IAB) composed of IT professionals from various sectors. The IT-IAB will provide guidance to training providers on the required occupational credentials needed for hire now and in the future, modifications and enhancements to courses or curriculum and recommendations on future training offerings. See Chapter IV.B.2 for further information on these subtitles.

## ***2. Fund the Heroes Pay Act of 2021 (\$5 million)***

The Committee recommends a grant program to provide heroes pay to the essential workers who keep the District's economy and services going during the pandemic. The American Rescue Plan Act explicitly allows for "premium" pay to essential workers in the form of grants to employers. The Committee has drafted a BSA subtitle and identified \$5,000,000 of funding for these payments. The Committee hopes that other Committees will also contribute funds so that more workers can receive compensation for the incredible sacrifices they made by working during the pandemic. The Committee has placed this

program at the WIC with intentionality and purpose: The WIC works closely with the employer community; implementing this grant will put even more employers in the WIC's orbit, helping inform employers of the WIC's work and helping the WIC accomplish its long-term mission. See Chapter IV.B.VI. for further discussion of the subtitle.

***3. Fund the Healthcare Workforce Partnership Training Grants in FY2022 and future years (\$500,000)***

The Committee recommends the WIC fund the healthcare occupational training grants as mandated by the Healthcare Workforce Partnership Act (D.C. Code §32-1685). The Committee identified funding for the WIC to staff the Partnership, provide a grant for intermediary duties, and issue 2 training program grants in the FY2021 budget. The proposed FY2022 budget reduces the WIC's recurring training money from \$300,000 to \$150,000. The intermediary grant is fully funded in FY2022, but without the complimentary training grants to support the Partnership's recommendations, the work will be in vain. The impact of not training residents for healthcare jobs results in District healthcare employers turning to Maryland and Virginia to hire workers. The WIC should fund the mandated training grants and ensure the District residents are the first employees hired for healthcare employment vacancies in the District.

***4. Provide technical enhancement to correct miscoding of Career Coaches funds and send to the Workforce Investment Council, (transfer from Committee of the Whole to the Committee on Labor and Workforce Development, \$4,563,000 each year for two years and imbed career coaches at existing community access points to create a "Virtual American Jobs Center".***

The Mayor's proposed FY2021 budget includes an initiative to onboard and hire 25-50 Career Coaches for the purpose of advising unemployed residents on their next occupational endeavor. The funding for the Career Coaches was miscoded in the Deputy Mayor for Education (DME) budget and requires a technical enhancement to correct for the miscoding. The \$4.56 million should be transferred from the DME's Program 2000 (Department of Education), Activity Code, 2010 (Agency Oversight and Support), to DME's Program 3000 (Workforce Investment), Activity Code, 3012 (Workforce Investment). The Committee of the Whole recommends the transfer of funds, and the Committee on Labor and Workforce Development supports the transfer proposed.

Furthermore, the Committee recommends the WIC imbed the proposed Career Coaches in existing community access points to support a "Virtual American Jobs Center." The Workforce Innovation and Opportunity Act (WIOA) is the federal law designed to strengthen and improve the public workforce system and help get residents into high-quality jobs with career growth and help employers hire and retain skilled workers. WIOA endorses a one-stop model which is the idea of co-locating various social services together to meet as many jobseekers needs in "one stop." The one-stop model reduces the burden on residents to access multiple locations for various services. The coronavirus pandemic demonstrated that in-person service delivery is not always necessary to connect systems and people or to deliver services.

The One-Stop Centers or American Job Centers (AJCs) are the entity responsible for directly providing an array of employment services and connecting customers to work-related training and education. The WIOA law has mandates on the physical co-location of partners and on shared infrastructure expenses. WIOA also requires State workforce development boards, which in DC is the WIC, to align WIOA mandatory partner's data systems. WIOA establishes functions of the state workforce boards and explicitly requires, "Development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including design implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes and the incorporation of local input into such design and implementation to improve coordination of services across one-stop partner programs."

The WIC executive director testified at the FY2022 budget oversight hearing:

With an investment of \$4.56 million, the WIC, in partnership with our workforce system partners and community-based providers, we will establish a cohort of trained Career Coaches, and provide training to other case managers and those supporting job-seekers, to expand our ability to guide residents into high-demand, high-wage employment opportunities.

The director further shared the vision of building out the Data Vault to connect existing government data systems for seamless referral and information sharing across partners. Given the vision for the career coaches, the Committee recommends the WIC embed the career coaches in existing access points and leverage the Data Vault as a tool to create a "Virtual American Jobs Center".

Career coaching is "getting the support, help, and guidance you need to figure things out to reach your ultimate career goals. A career coach is there to ask questions, give you guidance, and help you overcome whatever challenges you're facing in your job search."<sup>89</sup> Career coaches are professional mentors that provide objective information on an individual's career goals and job search. They are very similar to the workforce development specialists (WDS) at AJCs, which operate under WIOA. These AJC staff provide employment and training guidance to customers. In the District, DOES is the entity that staffs the American Job Centers with WDSes to assist customers with their needs. According to a DOES job description, WDSs "conduct program orientations providing customers with detailed information on workforce development services; the application and eligibility process; labor market information; and other available career and supportive service resources." The description further outlines that WDSs conduct individualized counseling sessions to determine eligibility and suitability for employment and training services and develops individualized employability plans "outlining long and

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<sup>89</sup> Maria Hebda, The Career Experts, blog post March 3 2018: What's Career Coaching Anyway? available at: <https://thecareerexperts.com/jobseekers/career-management/what-is-career-coaching/>.

short-term vocational objectives and steps to be taken in achieving the specified employment goal."<sup>90</sup>

Given the similarity of job descriptions between career coaches and WDSs, the WIC should invest in the one-stop model and imbed the proposed career coaches at existing AJCs as well as community access points such as neighborhood libraries, community recreation centers, and intentionally at the Re-Engagement Center, Federally Qualified Health Clinics and the Interagency Council on Homelessness coordinated entry system. Community access points that are connected through the same data system will maximize the District's capacity to connect residents with the desired employment service.

The one-stop model is meant to create one location for all residents to receive individualized support. The one-stop eliminates confusion for residents on where to go for help. By deploying career coaches into existing community access points, employment services will be pushed into the community at frequented locations and meet residents where they are. Career coaches are a wise investment for the District's workforce system if utilized to strengthen and connect the existing workforce system. Career coaches can aid in developing a system that is accessible to jobseekers needs while streamlining and strengthening the overall workforce system available to residents in the District. Capacity development is an appropriate use of ARPA funds and recommended by the Committee.

**5. Fund employer partnerships and provide for intermediary services; enact technical enhancement to correct miscoding of these funds in the DOES budget \$6.59 million each year for three years.**

The Committee recommends a technical enhancement to correct miscoding of funds in the DOES budget. The Committee was informed by DOES they intend to transfer \$6.59 million from Program 4000 (Workforce Development) Activity Code 4900 (Statewide Activities) to the WIC Program 3000 (Workforce Investment) Activity Code 3012 (Workforce Investment) each year for three years of funding. The purpose of the funding is to implement an Employer Partnership Program. The WIC Director Smith testified at the FY2022 budget oversight hearing, stating that the funds would:

*Enable the WIC to launch a workforce partnership grant program that will fund partnerships between employers, educational institutions, and training providers, and to help residents earn credentials and build work experience in high-demand occupations and industries. This strategy ensures that workforce training in the District is directly informed by employers' needs, and that residents who complete the program are competitive for local jobs.<sup>91</sup>*

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<sup>90</sup> Department of Employment Services job announcement, Workforce Development Specialist available at: [https://dchr.dc.gov/sites/default/files/dc/sites/dchr/page\\_content/attachments/Workforce%20Development%20Specialist%20%28Federal%20Programs%29%20Form.pdf](https://dchr.dc.gov/sites/default/files/dc/sites/dchr/page_content/attachments/Workforce%20Development%20Specialist%20%28Federal%20Programs%29%20Form.pdf).

<sup>91</sup> Testimony of Ahnna Smith, Executive Director, Workforce Investment Council before the Committee on Labor and Workforce Development, Council of the District of Columbia Public Oversight Hearing regarding the Workforce Investment Council, June 3, 2021.

The Committee applauds the partnership initiative and encourages the WIC to also fund intermediary services necessary to ensure the partnerships are successful. Intermediary services are the act of organizing and convening partners, setting an agenda, ensuring productivity of meetings, project managing the work to ensure objectives are met, and brokering the relationship between employers and training providers. In FY2021 the Committee recommended the Healthcare Workforce Partnership Establishment Act of 2020. The model intentionally included requirements for an intermediary. The activities provided by an intermediary are like "quarterbacking" or "managing" the work. The Committee strongly recommends the WIC include the role of intermediary when soliciting proposals.

## **b. Policy Recommendations**

### ***1. Seize the opportunity to lead the District's workforce recovery through investing American Recovery Plan Act funds in the long-term system enhancements.***

The Mayor's budget proposes for WIC to receive over \$10 million in ARPA funds to train and hire career coaches and develop partnerships between employers and training providers. The Committee is providing over \$16 million in additional funds to help the WIC expand training further in high-demand sectors and to provide grants to employers to thank and reward pandemic essential workers.<sup>92</sup> To ensure the funds achieve the goal of strengthening the workforce system, the Committee endorses the following budget recommendations.

The Committee applauds the Workforce Investment Council's commitment to focus on building the infrastructure of the workforce system. Ahnna Smith, executive director of the WIC, testified in the budget oversight hearing that "In FY2022 and beyond, the WIC will work to organize and reinforce the infrastructure necessary to deliver a world-class workforce system that builds resiliency in the residents and employers of Washington, D.C. It is our responsibility and commitment to ensure that the workforce system—our business community, training and support services providers, educational institutions, and agency partners—is able to meet challenges we have never before encountered and seize opportunities." FY2022 is the opportunity to use the American Recovery Plan Act (ARPA) funds to make investments that strengthen the workforce system for the long-term.

The WIC's Business Services scan revealed 16 separate agencies in District government providing workforce services and engaging employers.<sup>93</sup> Many of the agencies included in the scan were not aware of programming provided throughout the District government and until the scan there was no centralized accounting of all workforce activities. The funding provided to the District through ARPA can be used to coordinate workforce efforts and improve the current workforce systems. The ARPA funds are a once

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<sup>92</sup> These funds were erroneously not loaded to the WIC's budget in the Mayor's proposal, but the Committee was able to properly code the funds for employer partnerships, while the

<sup>93</sup> Workforce Investment Council [Business Services Scan](https://dccouncil.us/wp-content/uploads/2021/02/WIC-FY20-21-Performance-Oversight-Hearing-Responses.pdf), 2020 available at: <https://dccouncil.us/wp-content/uploads/2021/02/WIC-FY20-21-Performance-Oversight-Hearing-Responses.pdf>

in a century opportunity to reimagine the District's workforce system and for the WIC to lead the charge.

**2. Focus on engaging business and highlighting the District's talented residents.**

**a) Prioritize and increase hiring activities for short-term COVID-19 recovery efforts; track and release performance outcomes**

The Committee applauds the “Back to Work DC” Campaign led by the Deputy Mayor for Planning and Economic Development and in coordination with ten district agencies, including the WIC. The WIC was involved in recruiting employers to participate and promoting and staffing the events in January and March. Concentrating recovery efforts on hiring is precisely where the WIC should focus. The coronavirus health emergency dislocated over 80,000 District workers, with high displacement in the food services and hospitality industries. Many workers will need help getting back into employment, and as businesses reopen, they need help to staff back up again.

The Committee was pleased the WIC partnered with DOES to recruit employers and utilized the DC Networks system to identify residents in need of employment. The event is a great example of the importance of a well-built and solid workforce development system. The WIC, a business-led board, and DC Networks, a centralized electronic tool that maintains a list of available workers and a list of vacant job positions by employers, are both critical elements of a highly effective workforce system. Connecting jobseekers to employment opportunities is the fastest path to recovery and should be the immediate focus of the WIC. Hiring events like “Back to Work DC” are one effort that convenes multiple residents in one location for employers to screen and vet many candidates. The event attracted 416 jobseekers and 85 employers with more than 500 vacant positions available and 358 interviews completed. The Committee is eager to learn of the final hiring outcomes and understands the WIC will provide this information to the Board. The WIC should host, endorse, and participate in more hiring events in the future and ensure the outcomes are tracked to improve upon future performance.

**b) Leverage hiring events to increase business engagement in the workforce system and build sector partnerships**

The WIC and the Board can leverage the hiring events to increase business engagement in the workforce system and build sector partnerships. Often employers tell the Committee they cannot find candidates with the skills, knowledge, and abilities needed for employment. Successful hiring events paid for and hosted by the WIC is one way to change the narrative and attract new business to engage the workforce system. A well-organized event that screens candidates in advance to ensure they meet the qualifications of available jobs, highlights for business the talented residents within the District. Hiring events demonstrate the value of the WIC and its responsiveness to the hiring demands of business. As the workforce development board for the District, the WIC should be the first and only "one-stop" for employers. Starting now to create opportunities for employers to

hire the highest quality residents is the easiest and fastest way to engage business in the workforce development system.

Once business is engaged, the WIC should organize employers by sector and seek recommendations for system improvements. Sector partnerships are considered a best practice to carry out activities that align workforce development programs with the hiring needs of an industry. Congress revamped the WIOA, federal workforce development law of 2014, and made industry sector partnerships a key component. The law requires workforce boards to create and utilize sector partnerships and says that funds allocated to a local area “shall be used... to develop, convene, or implement industry or sector partnerships.”<sup>94</sup>

The Healthcare Workforce Partnership is an excellent example of a sector partnership. Established in the FY2021 Budget Support Act, the Healthcare Workforce Partnership is composed of healthcare employers and training providers that come together through the support of an intermediary, to provide guidance to the District on healthcare workforce training funded through training grants in the healthcare field. The Partnership has received support from all involved and expanding the model to other sectors demonstrates the District's commitment to prepare and train a qualified workforce. The WIC can use the Partnerships to respond to market changes and deliver a workforce that is nimble and available. By successfully implementing sector partnerships, the WIC will be at the intersection of innovation and will be viewed by business as a sure-fire way to succeed in DC.

***3. Support the training provider community by offering professional development, and technical assistance.***

Training provider performance has been a top concern of the Committee for many years. The Committee’s FY2021 budget report recommended the WIC work with DOES to improve outcomes in the federally funded WIOA programs, particularly those geared to adults. Employers continue to tell the Committee they can’t find qualified and quality DC residents to hire. With the infusion of ARPA funds into the District workforce system, employers should be able to find well-trained, qualified applicants for hire.

Yet, data continues to confirm improvement is needed. FY2021 will remain an anomaly due to the Coronavirus pandemic. However, the WIOA performance metrics for credential attainment outcomes are quite low. In the table below the shaded cells indicate the past five quarters of negotiated outcomes, which were not met. Unfortunately, the trend is moving in the wrong direction.

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<sup>94</sup> Workforce Innovation and Opportunity Act, 29 USC 32, §3174(c)(1)(A)(v). (Sec. 134 of H.R. 803). There are multiple references to sector partnerships in the Act, including requiring that state workforce boards disseminate information to local areas about sector partnerships, it is allowable use of statewide WIOA funds, and “industry or sector partnership is a defined term (see 29 USC 29 §3102(26)).

		PY18								PY19			
		Negotiated Outcome	Q1		Q2		Q3		Q4		Negotiated Outcome	Q1	
			N (number)	Percent	N (number)	Percent	N (number)	Percent	N (number)	Percent		N (number)	Percent
<i>Title I Adult</i>	<i>Credential attainment</i>	60.00%	69.30%	100.00%	61.30%	100.00%	59.20%	99.00%	47.20%	78.60%	60.00%	28.70%	48.00%
<i>Title I Dislocated Worker</i>	<i>Credential attainment</i>	60.00%	66.70%	100.00%	60.00%	100.00%	60.00%	100.00%	50.00%	83.30%	60.00%	46.20%	77.00%

For training providers to achieve the negotiated targets, the WIC should provide professional development for training providers staff and individualized technical assistance.

**a) Create a professional development program for training providers.**

The Committee recommends that the WIC create a learning community similar to OSSE’s Adult and Family Education (AFE) Program, “Occupational Literacy Project” (OLP). OSSE began the OLP in FY2016-17 to upskill and prepare adult education providers for service changes required by WIOA. The OLP was a multi-week training institute designed to equip adult educators with the tools needed to integrate occupational skills training into their delivery model. Before the passage of WIOA, the providers mostly taught traditional adult basic education such as reading and math. WIOA required a hybrid model that taught reading and math skills in an occupational context.

The OLP provided evaluation, technical assistance, and professional development services to Adult Basic Education (ABE) and vocational training organizations serving District residents. During the training sessions, participants focused on occupational literacy, career mapping, and project and program management. Participating instructors were trained on student learning outcomes, lesson plans, class activities, program and class assessment, and instructor evaluation. Moreover, all participants developed skills in new occupational literacy areas, such as diversity/cultural competency, self-management, and entrepreneurship/intra-preneurship. The OLP introduced providers to workforce tools such as the EMSI Economic Modeling labor market database. All participants learned about WIOA changes, newly required performance outcomes, and requirements for administering grants. As a result, providers understood the expectations for their performance and were ready to meet residents’ needs.

The most inspiring effect of the “OLP” was the improved performance outcomes. OSSE AFE met and exceeded the District’s WIOA performance measures within the first program year post-OLP completion. For FY18, OSSE AFE negotiated a measurable skill gains performance target of 42 percent and exceeded its target, with 46.2 percent of students enrolled in an OSSE AFE funded program achieving a gain. This reflects a 9-



percentage point, or roughly 25 percent, increase over the percentage of students with measurable skill gains in FY2017 (37 percent).<sup>95</sup>

The WIC has experience running a learning community called The DCWorks' Career Pathways Community of Practice (CoP). The CoP launched in FY2018 and included WIOA-funded adult training service providers. The training topics covered the DC economy, sector strategies, program design, system alignment, and performance measurement. The CoP was a virtual community with a calendar of workforce-related events, topical blogs, and a robust library of resources. The materials are still available on the WIC website and can be utilized for future learning communities.

Given the successful outcomes from OSSE's OLP and the resources developed through the CoP, the WIC should continue to offer a learning community and enhance the practices in the field to achieve greater success training, credentialing and employing District residents. The Committee recommends the learning community include both ETPL and OSSE AFE providers with a small financial incentive for participation. The curriculum should focus primarily on strategies to improve performance outcomes and connect providers to employers in the sector of training. Similar to sector partnerships, learning communities provide space for peer-to-peer learning and collaboration. The Committee recommends the WIC lead the learning communities with their own staff to ensure the knowledge shared is fully integrated into the workforce system. The WIC should develop evaluation tools to ensure providers are employing the knowledge learned, and measure results for improvement. The Committee encourages the WIC to resurrect the learning communities until providers are regularly meeting—and even exceeding—the target outcomes and the District's workforce is thriving.

#### **b) Individualized technical assistance**

Individualized technical assistance for training providers is also effective at improving provider performance. WIOA is only five years old, and in that time, the US Department of Labor (USDOL) has revised and amended rules multiple times. USDOL has added new activities and costs as allowable expenses and has endorsed particular models like sector partnerships.

Between WIOA policy changes and the shifting demographic of unemployed residents, the provider community can benefit from customized technical assistance to stay apprised of best practices and innovation. For example, residents with substantial work history now utilize workforce services that previously served chronically unemployed residents; providers need to adapt to this change. The WIC can help providers improve by providing technical assistance on an as-needed basis.

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<sup>95</sup> DC OSSE Adult and Family Education Annual Performance Report FY 2017-2018 available at: <https://osse.dc.gov/service/adult-and-family-education-reports-and-data>

**4. Develop a two-year plan to assume all local workforce development board functions required under WIOA.**

The Committee recommends the WIC develop a two-year plan to assume all functions of a local workforce development board (WDB) required by WIOA, the federal law governing the workforce development system. WIOA outlines the workforce development system states must develop. The District's Workforce Investment Council is charged with serving as both the state and local workforce board because of the District's designation as a "single-state-area." With a single state designation comes specific responsibilities outlined in WIOA. Overall, the WIC is implementing most of its required tasks, with two significant exceptions: 1) budgeting and overseeing WIOA funds, and 2) selecting and overseeing service providers for youth. Both federal and local law requires that the WIC, as a WDB, take responsibility for these functions.

The intention behind WIOA is for WDBs, which are business-led, to direct the local workforce investments and activities. When the WDBs approve and direct WIOA funding allocations and oversee workforce activities, the workforce system is responsive to hiring needs and is more likely to prepare residents for successful employment. In the District, activities that are to be overseen by the WIC are carried out by DOES.

The WIC is well within its legal authority and is required under both federal and local law to direct the use of WIOA funds. The federal law, WIOA, gives the WDBs financial oversight responsibility. Federal code outlines state-level board functions, including "Development of allocation formulas for the distribution of funds for employment and training activities for adults and youth workforce investment activities to local areas as permitted under WIOA secs. 128(b)(3) and 133(b)(3)."<sup>96</sup>

DC Code also outlines the WIC's responsibility to direct funds: "The WIC shall direct [DOES] to disburse funds received pursuant to ... the Federal Act to support the activities described ... consistent with WIC policies."<sup>97</sup>

Finally, the WIC's WIOA Policy Manual reflects these statutory mandates. It states that "DOES serves as the District's fiscal agent. As such, DOES receives annual allocations for WIOA Adult, Youth, and Dislocated Worker programs from the US Department of Labor and *must allocate funds in compliance with guidance issued by the WIC*" (emphasis added)<sup>98</sup>

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<sup>96</sup> WIOA sec. 101(d)(9) found at: <https://www.congress.gov/113/bills/hr803/BILLS-113hr803enr.pdf>

<sup>97</sup> § 32-1603(i)(1): WIA administrative entity found at: <https://code.dccouncil.us/dc/council/code/sections/32-1603.html>. Also see § 32-1603.01(5): "The District's state workforce investment board shall develop policies and procedures pertaining to the use of funds pursuant to ... the Federal Act."

<sup>98</sup> Workforce Investment Council WIOA Policy Manual page 14, found at: <https://dcworks.dc.gov/sites/default/files/dc/sites/dcworks/publication/attachments/WIC-WIOA-Policy-Manual-May22.pdf> Also see DC Code §32-1603(i)(2): "The WIA administrative entity shall disburse the funds described in paragraph (1) of this subsection immediately upon the direction of the local workforce investment board; provided, that the direction does not violate a provision of the Federal Act or District law."

Unfortunately, the WIC does not receive financial statements regarding WIOA funds, either before they are budgeted or after DOES spends the funds. And contrary to federal and local law, the WIC does not direct or allocate the use of federal WIOA funds. This must change for the District to be compliant with the law and responsive to residents and businesses' hiring needs.

**a. Establish a Finance Committee**

For the WIC to make informed decisions on WIOA funding budgets, the Committee strongly recommends that the WIC establish a Finance Committee. Typical functions of a WDB finance committee include setting funding priorities, reviewing grants and contracts, and monitoring federal WIOA funding balances, expenses and investments by the implementing agency (in the District, DOES). With WIOA entering the fifth year of implementation, the WIC Board is long overdue for a finance committee.

Finance committees in other states' workforce investment boards, are standard. For example, New Hampshire has a similar design to DC's workforce system, as both are designated as single-state areas by their executives. New Hampshire's WDB finance committee reviews grants, contracts, and financial statements of the New Hampshire Department of Labor. Annually the Board reviews proposed grants to be funded with WIOA funds and approves a budget by a vote. The New Hampshire Department of Labor is then authorized to execute services as approved by the WDB. A sample of the process can be found at the NHWorks website.<sup>99</sup> The District should adopt the New Hampshire model and become compliant with the requirements of WIOA.

**b. Select and oversee youth workforce service providers**

Another function of a local workforce development board, as outlined in both federal and local law, is the selection and oversight of providers of workforce services for District youth.

WIOA section 123, DC Code §32-1603(h)(8), and the WIC policy manual page 82 clearly states that selection and oversight of youth providers are the local workforce development board's responsibility. The WIC already establishes eligibility criteria, selects, and oversees adult training providers. The WIC maintains the ETPL for adult providers, but there is no such list in the youth services space, although the functions are the same. The WIC should determine which providers have the capacity and expertise to provide quality services and then oversee those providers' programs to ensure they meet performance standards and, if not, take appropriate actions to stop utilizing unsuccessful providers.

In pre-hearing performance oversight, the WIC said that it would be burdensome and duplicative for the WIC to take on youth provider selection:

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<sup>99</sup> New Hampshire Works July 10, 2017 meeting minutes found at: <https://www.nhworks.org/wp-content/uploads/2018/12/07-10-2017-SWIB-Meeting-Minutes-.pdf>

*WIC is the State Workforce Development Board for the District of Columbia. Like a small number of other States and territories, DC consists of a single local workforce area. Special designation provisions for single area states are outlined in 20 CFR Part 679.270, including conducting the functions of the local workforce board, but may do so in a manner that reduces unnecessary burden and duplication of processes. Under those parameters, DOES procures services as necessary, including for youth providers.<sup>100</sup>*

The Committee fails to understand why the selection of youth providers is an unnecessary burden or duplication of process when adult selection of providers has remained a responsibility of the WIC. Furthermore, as a business-led board, the WIC playing the active role of selector and evaluator is the best way to ensure services generate employment. Finally, the WIC should comply with the federal WIOA law, the DC Code, and the WIC's own policy manual, all of which require that the WIC be the actor to select and oversee youth providers.

### **3. FY 2022-2027 CAPITAL BUDGET**

The WIC has no proposed capital budget for FY 2022-2027

### **4. SUMMARY OF COMMITTEE RECOMMENDATIONS**

#### **a. Fiscal Year 2022 Operating Budget Recommendations**

1. Fund and implement BSA legislation to invest in UDC Community College, Division of Workforce Development and Lifelong Learning and community training providers to expand occupational training opportunities in Nursing and IT, as well as establish an IT Occupational Advisory Board. (\$5,202,626)
2. Fund the Heroes Pay Act of 2021 (\$5 million)
3. Fund the Healthcare Workforce Partnership Training Grants in FY2022 and future years (\$500,000)
4. Provide technical enhancement to correct miscoding of Career Coaches funds and send to the Workforce Investment Council, (transfer from Committee of the Whole to the Committee on Labor and Workforce Development, \$4,563,000 each year for two years and imbed career coaches at existing community access points to create a "Virtual American Jobs Center".
5. Fund employer partnerships and provide for intermediary services; enact technical enhancement to correct miscoding of these funds in the DOES budget \$6.59 million each year for three years.

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<sup>100</sup> Workforce Investment Council, FY2021 Performance Oversight Pre-hearing Questions, question #31, available at: <https://dccouncil.us/wp-content/uploads/2021/02/WIC-FY20-21-Performance-Oversight-Hearing-Responses.pdf>.

Summary of Budget Changes for WIC (GW0)						
Program	Activity	CSG	Frequency	FY2022 recommendation	Comments	Legislation
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$1,211,000	UDC Nursing Training Funds (ARPA funding)	BSA Subtitle DC Nurse Education Enhancement Program Amendment Act
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$874,000	UDC IT Training Funds (ARPA funding)	BSA Subtitle IT Community Training and Advisory Board Establishment Act
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$900,000	Nursing Training Grants (ARPA funding)	BSA Subtitle DC Nurse Education Enhancement Program Amendment Act
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$1,875,000	IT Training Grants (ARPA funding)	BSA Subtitle IT Community Training and Advisory Board Establishment Act
3000 Workforce Investment	3012 Workforce Investment	11 Regular Pay	Recurring	\$102,962	Program Manager	BSA Subtitle DC Nurse Education Enhancement Program Amendment Act
3000 Workforce Investment	3012 Workforce Investment	11 Regular Pay	Recurring	\$100,926	Program Manager	BSA Subtitle IT Community Training and Advisory Board Establishment Act
3000 Workforce Investment	3012 Workforce Investment	14 Fringe Benefits	Recurring	\$20,387	Fringe Benefits for 1 FTE	BSA Subtitle DC Nurse Education Enhancement Program Amendment Act
3000 Workforce Investment	3012 Workforce Investment	14 Fringe Benefits	Recurring	\$20,387	Fringe Benefits for 1 FTE	BSA Subtitle IT Community Training and Advisory Board Establishment Act
3000 Workforce Investment	3012 Workforce Investment	41 Contractual Services-Other	One-time	\$100,000	Technical Writing/Grant making support contractor (ARPA)	BSA Subtitle IT & Nursing
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	One-time	\$5,000,000	Essential workers premium pay	BSA subtitle Heroes Pay Act
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$500,000	Restore and enhance Healthcare Workforce Partnership Training Grants	
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$4,563,000	Correction to miscoding in GW0 budget for Career Coaches.	
3000 Workforce Investment	3012 Workforce Investment	50 Subsidies and Transfers	Recurring	\$6,590,000	Correction to miscoding in CF0 budget for Employer Partnerships	

**b. Fiscal Year 2021 Capital Budget Recommendations**

**c. Policy Recommendations**

1. Seize the opportunity to lead the District's workforce recovery through investing American Recovery Plan Act funds in the long-term system enhancements
2. Focus on engaging business and highlighting the District's talented residents.
  - Prioritize and increase hiring activities for short-term COVID-19 recovery efforts; track and release performance outcomes
  - Leverage hiring events to increase business engagement in the workforce system and build sector partnerships
3. Support the training provider community by offering professional development, and technical assistance.
  - Create a professional development program for training providers.
  - Individualized technical assistance
4. Develop a two-year plan to assume all local workforce development board functions required under WIOA.
  - Establish a Finance Committee
  - Select and oversee youth workforce service providers

### 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.

#### OFFICE OF THE ATTORNEY GENERAL (CB0)

The Committee recommends transferring the following amounts to the Committee on the Judiciary for the Office of the Attorney General

*A. Funding of Medical Marijuana legislation (Law passed subject to appropriations): \$281,522 total over two years.*

The Council passed legislation in 2020 to provide employment protections for District government employees who are medical marijuana patients. The legislation also provided for a process for employees to challenge their jobs' designation as safety-sensitive. The second level of this appeal will be before the Office of Employee Appeals. The Office of the Attorney General represents agencies before OEA and will need a temporary staffperson to handle these cases (Grade 13, step 5). It is temporary because the designation appeals can happen only at certain trigger points, including the effective date and associated notification to employees of their rights under the new law. Therefore, there could be a relatively significant number of appeals in the first two years of the law's effectiveness. The Committee recommends full funding to implement this law and notes that only the provision of the law regarding the OEA appeals process is subject to appropriations; the rest of the law, including employment protections and other provisions were effective as of April 27, 2021. The final Fiscal Impact Statement follows:

#### Funding for Medical Marijuana Program Patient Employment Protection Amendment Act (B23-309)

	FY22	FY23	FY24	FY25	Total
<b>Salary</b>	\$115,260	\$117,277	\$0	\$0	\$232,537
<b>Fringe</b>	\$24,205	\$24,780	\$0	\$0	\$48,985
<b>Total</b>	<b>\$139,465</b>	<b>\$142,057</b>	<b>\$0</b>	<b>\$0</b>	<b>\$281,522</b>

*B. Funding of Workplace Rights Grants Program: \$867,899 recurring*

The Committee recommends establishment of a Workplace Rights Grants Program at OAG to help workers realize their rights under employment laws by funding community organizations to educate workers and provide legal services. The Committee has identified funding in the amount of \$117,899 for a grants administrator and \$750,000 for grant awards.

## OFFICE OF VICTIM SERVICES AND JUSTICE GRANTS (FO0)

The Committee recommends transferring the following amounts to the Committee on the Judiciary for the Office of Victim Services and Justice Grants

### *A. Funding of Eviction Diversion Coordination: \$1.5 million one-time*

The Committee recommends establishment of Eviction Diversion Coordination as a supplement to the Access to Justice program. Eviction Diversion Coordination would reduce eviction filings by coordinating access to dispute resolution resources, such as legal services, emergency financial assistance, mediation, and social services. Creation and implementation of an Eviction Diversion program was a key recommendation of Mayor Bowser's Saving DC's Rental Housing Market Strikeforce, which convened earlier this year. Given the high cost of housing in this city, the traumatic effects of eviction on individuals and households, and the economic crisis due to the pandemic, this is the right time to put an eviction diversion program in place. The Committee has identified funding in the amount of \$1,500,000 for provision to the DC Bar Foundation for program costs.

### *B. Enhancement for flexible funding for survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking: \$3 million*

The Committee recommends an enhancement of \$3 million in flexible funding to be made available to survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking. Stay-at-home orders and other pandemic responses in the District and around the nation have reduced the ability of individuals affected by domestic violence to access the services they need. In the first half of 2020, calls to the National Domestic Violence Hotline fell by almost 60%, compared to the first half of 2019. It is likely the District will see an increase in cases of intrafamily offenses, sexual abuse, stalking, or human trafficking as the pandemic restrictions are lifted, requiring additional funds to help survivors.

## REVENUE REDUCTION

The Committee recommends providing \$28,633,076 over the financial plan to the Business and Economic Development Committee, to implement the Making Unemployment Compensation Nontaxable Amendment Act Budget Support Act subtitle. The subtitle would permanently make unemployment benefits received by District residents exempt from local income taxes, requiring a \$28,633,076 reduction in local revenue. Unemployment compensation is a large part of the government's safety net, and yet it is taxed as income in the District. Currently, 21 states do not tax at least some unemployment compensation received by their residents, with most of those states completely excluding it from income taxation. The District should treat unemployment compensation like the other safety net programs, such as Medicaid, Social Security (which is generally not taxed unless there is significant outside income), food stamps, and Supplemental Security Income, by exempting it from taxation. The Making Unemployment Compensation Nontaxable Amendment Act subtitle would exempt



unemployment compensation from taxation by the District beginning in tax year 2021 (for taxes filed in the spring of 2022).

#### **DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT (EB0)**

The Committee recommends providing \$30,000,000 to the Deputy Mayor for Planning and Economic Development, for grants to small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses during the public health emergency and need assistance with paying back rent or other costs of reopening. The pandemic was an unprecedented time for District businesses. Thousands of District employers were forced to close their businesses, reduce their hours, or radically rethink their business models, leaving tens of thousands of District workers unemployed. But many businesses were either unaffected or recovered quickly. The District should provide targeted relief to the businesses and industry sectors that were hardest hit, to maximize the impact of any financial support. This is how the District implemented its previous rounds of business support during the pandemic. The Bridge Fund grants were carefully targeted to those small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses because of the pandemic.

The District should provide another batch of business grants for companies in those industries hardest hit by the pandemic. Providing \$30 million for these grants would allow DMPED to issue up to 1,000 grants of \$20,000 each to businesses in the restaurant and retail industries that lost significant amounts of revenue and were forced to lay off workers through no fault of their own. Helping these businesses recover and pay down their debts will keep them in business, and ensure there are businesses ready to hire District workers as the economy recovers and the District reopens. The grants will prioritize small and local businesses, with a set-aside for businesses owned by economically disadvantaged individuals and women. The grants should also require recipients to prioritize hiring District residents, or participate in the District's Summer Youth Employment Program.

The Committee hopes to work with the Deputy Mayor for Planning and Economic Development to make sure that a portion of the funds goes to local, small businesses owned by people of color who may not have had access earlier in the pandemic to economic assistance programs such as the Paycheck Protection Program.

The Committee also recommends providing \$10,000,000 to the Deputy Mayor for Planning and Economic Development for grants specific to helping workers in the District's hotel industry. The hotel and travel industry, an important employer and economic driver in the District, was particularly hard hit by the pandemic. Conventions were cancelled; museums, theatres, sports and other entertainment venues shut down; and hotel vacancy rates soared due to the lack of travel. Some hotels have started to revive yet many workers remain unemployed or underemployed. The Committee plans to work with the Deputy Mayor to craft a strategic use of these dollars to help workers regain employment, which will allow them to access paid leave again.

## **WASHINGTON CONVENTION AND SPORTS AUTHORITY (ES0)**

The Committee recommends providing \$20,000,000 to the Business and Economic Development Committee for the Washington Convention and Sports Authority (Events DC) to increase the amount of funding for the excluded worker fund. These funds will add an additional \$1,000 for each excluded worker approved for an award from the community groups managing the fund. These workers were excluded from most, if not all, of the federal pandemic responses, including unemployment insurance and stimulus payments. The excluded workers faced the same challenges as everyone else: their employers closed, they lost shifts, and they lost a significant share of their income. But they did not have the same safety net protections as other workers. The District should step up and fill in the gap left by the federal government, and provide these District residents with financial support. This \$20 million will bring the total amount to \$35 million for excluded workers, but the fund could use significantly more before it would even provide a quarter of the financial support other District workers received.

## **DEPARTMENT OF HUMAN SERVICES (JA0)**

The Committee recommends providing \$5.5 million to the Department of Human Services, for incentive payments for unemployed District residents to complete STAY DC applications. The STAY DC program provides significant financial assistance to low-income renters who are behind on their rent or utilities. The District has received significant amounts of federal funding for this program, but the District is having difficulty making sure everyone knows about the program and having applicants complete their application. As of June 25, about 9,000 applications were approved by the District, but almost 34,000 other applications were either unfinished or needed more information. This subtitle would provide an additional one-time payment of \$500 to any STAY DC applicant who was on unemployment, a District resident, and has their STAY DC application approved between August and December 2021. This will both provide needed financial assistance to the lowest-income unemployed residents, while incentivizing residents to submit and complete STAY DC applications. The funds will provide \$5 million in grants plus \$500,000 for administrative costs.

## **IV. BUDGET SUPPORT ACT RECOMMENDATIONS**

On Thursday, May 27, 2021, Chairman Phil Mendelson introduced, on behalf of the Mayor, the “Fiscal Year 2022 Budget Support Act of 2021” (Bill 24-0285). The bill contains two subtitles for which the Committee has provided comments. The committee also recommends the addition of 12 new subtitles.

### **A. RECOMMENDATIONS ON MAYOR’S PROPOSED SUBTITLES**

#### **1. Title IV, Subtitle F, Apprenticeship Fines Amendment Act of 2021**

##### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle, proposed by the Mayor, requires that fines for violating the District’s apprenticeship requirement law be remitted to the Department of Employment Services (DOES) instead of the District of Columbia Public Schools, as current law requires. The apprenticeship law requires certain District of Columbia government contractors and beneficiaries of large projects funded by the District of Columbia government to register an apprenticeship program with the District of Columbia Apprenticeship Council. Those violating the law will be subject to a fine imposed by DOES equal to 5 percent of the contract’s direct and indirect labor costs. Fine revenue is to be used solely for the support of vocational education programs. Over the past number of years (unspecified), approximately \$30,000 in fines have been assessed. The Committee recommends the subtitle as proposed by the Mayor.

##### **b. Committee Reasoning**

Apprenticeships are one of the oldest and most successful models of workforce development. Apprenticeships combine on-the-job training with classroom instruction, teaching workers the practical and theoretical aspects of highly skilled occupations. Apprenticeship programs are sponsored by employers, labor groups, and employer associations. In the District, the Office of Apprenticeship, Information, and Training (OAIT) is part of the Department of Employment Services (DOES). The OAIT has oversight of the apprenticeship system, safeguards the well-being of apprentices, ensures the quality of programs, and provides integrated employment and training information to sponsors, employers, and trainers.

District law requires the fees collected from violations to the apprenticeship law are transferred to the District of Columbia Public Schools. Currently, DOES collects the fines, and they are included in the DOES budget as revenue collection. In recent years, about \$30,000 a year has been collected and deposited as “Other Revenue” for the DOES OAIT. Current practice is not consistent with the law, and the Mayor’s proposed subtitle will align the law and practice.

**c. Section-by-Section Analysis**

Sec. 4051. States the Short title.

Sec. 4052 Amends Amendments to An Act To Provide For Voluntary Apprenticeship in the District of Columbia Act of 1978, effective March 6, 1979 (DC Law 2-156; DC Official Code § 32-1431(c)(3)) to require that fines for violating the apprenticeship law be remitted to DOES.

**d. Fiscal Impact Statement**

The subtitle has no fiscal impact.

## **2. Title IV, Subtitle H, Universal Paid Leave Amendment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

The Mayor proposed a subtitle to amend the Universal Paid Leave Amendment Act of 2016 (codified at D.C. Official Code § 32-541.01 *et seq.*) for two primary purposes. First, the Mayor’s proposal would provide, on a one-time basis in FY2022 only, 2 weeks of paid leave benefits available to workers following the occurrence of a “qualifying pre-natal leave event” or a “qualifying domestic violence, sexual abuse, or stalking leave event.” These benefit expansions would cost approximately \$46 million in FY2022, according to the Chief Financial Officer (CFO). Second, the Mayor’s proposal would reduce the rate of employer contributions from 0.62% to 0.27% in FY2022, resulting in a revenue loss of approximately \$168 million. The Mayor characterizes the rate reduction as one-time tax relief to help businesses recover from the pandemic.

In addition, the Mayor’s proposal would amend the Universal Paid Leave Implementation Fund Act of 2016 (codified at D.C. Official Code § 32-551.01 *et seq.*) to expedite the CFO’s comparison of the program’s financial experience to the CFO’s projections. At the end of FY2020, the CFO certified that the program had an unexpected surplus of \$400 million. The CFO states that the surplus results from lower-than-expected benefit usage, caused by both the ramp-up phase of the new program (which began paying benefits on July 1, 2020) and by pandemic-related job losses that deprived affected workers of their eligibility for paid leave benefits.

The Committee’s recommended subtitle retains some of the Mayor’s proposals with amendments, rejects others, and adds new provisions addressing other topics. The Committee accepts the Mayor’s proposed 2 weeks of pre-natal leave. In lieu of the Mayor’s proposed paid leave for people experiencing domestic violence, the Committee recommends directing funding to OVSJG for flexible funding for survivors of intrafamily offenses, sexual abuse, stalking, or human trafficking. Building substantially upon the Mayor’s proposal to seek accurate fiscal estimates from the CFO, the Committee recommends periodic review of the CFO’s estimates. Further, the Committee recommends expanding parental, family, and medical paid leave benefits on a recurring basis, to take effect as soon as their fiscal effect can be certified. After full implementation of expanded benefits, the employer contribution rate may be reduced on an annual basis to meet the financial needs of the program, consistent with fully expanded benefits. In the meantime, the Committee recommends expanding the maximum duration of paid medical leave to 6 weeks on a one-time basis in FY2022. The Committee rejects the Mayor’s proposed one-time, untargeted business tax cut. The Committee further recommends several programmatic changes that will both hold harmless workers applying for the program after their return to work post-COVID and other changes that expand access to the program in the long term. See also discussion of budget-related matters in the Universal Paid Leave Fund agency chapter in Chapter II.J.

## **b. Committee Reasoning**

### **Untargeted One-Time Tax Cut**

The Committee recommends rejecting the Mayor’s proposal to provide \$168 million of untargeted tax relief to businesses through a one-time reduction in the employer contribution rate from 0.62% to 0.27% in FY2022. Although some covered employers have been hit hard by the pandemic, this proposed tax cut would provide a windfall to many businesses that have prospered. In testimony during the hearing on her proposed FY2022 budget, Mayor Bowser explained that the one-time tax cut would promote fairness by returning money to businesses that had been overcharged during the first year of the paid family leave program, which resulted in a \$400 million surplus. There is no question that the program’s expenses have, so far, been dramatically lower than the CFO had projected.

But rather than a broad-based, one-year giveback, the Committee recommends having the paid leave benefits for employees better reflect the investment made into the paid leave fund by employers. By rejecting the one-time tax cut, the District can cover the cost of providing expanded medical leave benefits in FY2022, while also providing targeted support to the businesses and people who have been hardest hit by the pandemic and other committee priorities (see the UPL agency chapter II.J for further information).

### **Benefits Expansion**

*Increase medical leave cap to six weeks in FY2022.* The Committee strongly recommends allowing claimants in need of medical care to receive up to six weeks of paid leave benefits in FY2022. Currently, UPLA provides up to two weeks of medical leave, which is woefully inadequate for many situations. The exact amount of leave a claimant will be entitled to will be determined by their specific medical need and certified by their doctor. The recognized standard for leave is up to 12 weeks or more for paid family and medical leave, as reflected in leading research, the federal Family and Medical leave Act (FMLA), and the leading federal paid leave legislation.<sup>101</sup> The Committee is recommending a 6-week cap rather than a 12-week cap due to the current CFO estimate, which precludes expanding the program further within the certified budget and financial plan. While this recommendation is limited to FY2022, the Committee also is recommending a path to expanding the duration of medical leave and other paid family leave benefits to 12 weeks. See below under the subheading “Expanding parental, family, and medical leave benefits on a recurring basis.”

Expanding medical leave will disproportionately assist low-income workers, people of color, and District residents of Wards 7 and 8. According to data provided by

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<sup>101</sup> World Policy Analysis Center, “A Review of the Evidence on the Length of Paid Family and Medical Leave,” Feb. 2018, available at <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.

DOES in January 2021,<sup>102</sup> in the first five months of the program, Black, Hispanic, and low-income claimants took medical leave and caregiving leave at twice or three times the rate of Whites and high-income claimants. In fact, more than half (56 percent) of all medical leave claims in the first 5 months of the program were from Black workers, although they represent 36 percent of all claimants. Low-income workers (under \$50,000 annual income) were 49 percent of medical leave claimants, while 21 percent of medical claims were from individuals with income over \$100,00 annually. And 35 percent of all District residents who applied for medical leave live in Wards 7 and 8, though these Wards represent just 21 percent of all claimants.

Furthermore, the current benefit allowances that provide up to 6 weeks of paid family caregiving leave but not for paid medical leave creates a problematic inconsistency where people can take a month longer to care for others than for themselves. For example, a woman can take up to six weeks of paid leave to care for her husband when he has cancer, but she can only receive two weeks of paid medical leave when she, herself has cancer. It is time to rectify this inequity.

*Provide two weeks of leave for pre-natal medical care in FY2022.* The Committee recommends retaining the Mayor’s proposal to provide an additional two weeks of benefits to expectant mothers for pre-natal care. The District has unfortunately high levels of infant and maternal mortality, which disproportionately impacts women of color. Ensuring that women can take time off work without sacrificing financial stability can contribute to their and their babies’ health. The Committee recommends clarifications to the language to ensure that the leave is related to medical care and includes pre-natal leave in the definition of qualifying medical leave. The Committee recommends retaining the Mayor’s proposal to allow two weeks of pre-natal leave on top of the maximum duration of parental leave benefits (8 weeks in FY2022), which will allow pregnant women to receive up to 10 weeks of leave combined. The Committee also recommends that the pre-natal care count towards the maximum amount of medical leave benefits (6 weeks in FY 2022), as pre-natal care is a medically-related leave purpose. While the recommendation of 2 weeks of pre-natal leave is also limited to FY2022 due to fiscal constraints, the Committee is recommending a path to maintaining 2 weeks of pre-natal leave on a recurring basis as the duration of other paid family leave benefits expands to 12 weeks. See below under the subheading “Expanding parental, family, and medical leave benefits on a recurring basis.”

*Leave for stillbirth.* The Committee recommends amending the definition of medical leave to include leave in the event of stillbirth. While leave for such events is potentially already covered by UPLA’s medical leave, making it explicit will provide clarify for both claimants and the agency. Furthermore, in light of recent discussions regarding how UPLA would treat stillbirth, the Committee makes clear that this is best situated within the medical leave part of the program. The Committee also recommends expanding UPLA medical leave to include fetal deaths and miscarriages; however, the Committee was unable to obtain a fiscal impact statement for expansion to fetal death and

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<sup>102</sup> Paid leave usage data available here:

[https://d3n8a8pro7vhmx.cloudfront.net/silverman/pages/1520/attachments/original/1611203008/January\\_2021\\_DOES\\_PFL\\_Written\\_Response\\_-\\_Question\\_6.xlsx](https://d3n8a8pro7vhmx.cloudfront.net/silverman/pages/1520/attachments/original/1611203008/January_2021_DOES_PFL_Written_Response_-_Question_6.xlsx)

miscarriage in the timeframe allowed, and thus the subtitle does not include relevant language. The Committee recommends that the Council consider this before the first Council-wide vote on the BSA.

*Expanding parental, family, and medical leave benefits on a recurring basis.* The Committee recommends legislation that will require the expansion of parental, family, and medical paid leave benefits upon the CFO's certification that funds are sufficient on a recurring basis. Under the Committee's recommended legislation, benefit expansions will occur automatically, without further action by the Council. Benefit expansions will proceed incrementally in the order set forth in the statute, until the maximum duration of parental, family, and medical leave equals 12 weeks. The maximum duration of pre-natal leave will remain fixed at 2 weeks.

The Committee's recommended legislation establishes an annual schedule for benefit expansions. By March 1 of each year beginning in 2022, the CFO will be required to review its fiscal estimates for the paid family leave program, based on the balance of the Universal Paid Leave Fund, projected revenues, projected cost of current benefits, and projected cost of expanded benefits. To the extent that funds are sufficient to expand the maximum duration of parental, family, and medical leave benefits, the benefit expansions will automatically go into effect as of the following October 1 (the first day of the following fiscal year). Although the CFO's current fiscal projections do not support the expansion of benefits in FY2023 and beyond, the Committee is confident that recurring revenues from the existing employer contribution rate will prove sufficient to support substantially greater benefits than the program currently offers.

After benefits are fully expanded to 12 weeks, the Committee recommends allowing the employer contribution rate to fluctuate based on the financial needs of the paid family leave program. The legislation directs the CFO to compute a "special rate" that would yield an amount of revenue necessary to fully fund benefits in the coming year, plus any additional funds needed to restore the balance of the Universal Paid Leave Fund to its required level of 9 months' worth of expenditures. In any year where the special rate is less than 0.62%, the special rate will replace the fixed employer contribution rate. The employer contribution rate will never exceed 0.62%, regardless of the special rate's computed value. The Committee believes that this computed rate will facilitate a better matching of program revenues and expenses over the long-term, while providing covered employers with an appropriate degree of tax relief.

### **Correction of CFO Fiscal Projections**

The Mayor proposed, and the Committee recommends, legislation that will require the CFO to compare its projections to the actual experience of the paid family leave program. The Committee understands the Mayor's proposal as a reaction to the \$400 million surplus in the Universal Paid Leave Fund at the end of FY2020, and more specifically as an expression of concern that the CFO's projections have been deeply flawed. The Committee shares this concern, but recommends legislation that goes farther than the Mayor's proposal.



The Committee's recommended subtitle requires the CFO to compare the projected cost of each type of paid leave to the actual cost on a quarterly basis. Whenever the CFO's projected cost is at least 3 times greater than the actual cost, the CFO must notify the Council and advise whether funds are sufficient to immediately expand paid family leave benefits. Unlike the annual process set forth above, the Committee does not intend this notice to result in an automatic expansion of benefits; instead, the Committee contemplates that additional legislation would be needed to expand benefits.

In the Committee's view, this subtitle is necessary because the CFO's projections have been, and remain, so wildly incorrect as to be unreasonable. While acknowledging that forecasting is difficult and that the pandemic has affected the economy in strange ways, the Committee registers its deep disappointment with the quality of the CFO's multiyear financial projections for the universal paid leave program. To say that the CFO's projections have been wrong is to understate the matter: the CFO's projections have been not even close.

For the FY2022 budget, the CFO continues to rely on the projections that it developed when preparing the fiscal impact statement for the Universal Paid Leave Amendment Act of 2016. At a staff level, the Office of the Chief Financial Officer has declined to update these projections based on any of the following:

1. the District's experience during the first benefit year of the program;
2. the experience of other states that have operated paid family leave programs for longer periods;
3. data showing that only 3% of the District's family leave claimants have taken all 6 weeks of family leave and the average claimant takes 3 weeks, contrary to the CFO's assumption that all women claimants will take the full 6 weeks of family leave and the average claimant will take 5.5 weeks;
4. data showing that only 1% of the District's medical leave claimants have taken the maximum amount of medical leave, contrary to the CFO's assumption that *all* medical leave claimants will take the maximum amount of leave (regardless of whether the maximum is 2 weeks or 6 weeks, and despite the requirement that leave is available only to the extent it is medically necessary);
5. demographic changes, including an 8.4% decline in the U.S. birthrate between 2014 and 2019; and
6. the veritable chasm between the amount of money the CFO has projected the District would pay and the amount of money the District has actually paid.

In the approximately 11 months between July 1, 2020 and June 3, 2021, the value of all paid leave benefits totaled \$38,145,450. Even without any benefit expansions, the CFO projects that in FY2022 the cost of parental leave will triple, the cost of family leave will grow 14 times, and the cost of medical leave will grow over 31 times.

	Maximum Duration of Benefits	11-month Period from July 1, 2020 to June 3, 2021	CFO Projection FY2022	CFO Projection FY2023
Parental Leave	8 weeks	\$34,352,640	\$118,357,630	\$166,435,897
Family Leave	6 weeks	\$2,387,075	\$36,731,678	\$51,652,520
Medical Leave	2 weeks	\$1,405,734	\$48,975,571	\$68,870,026

In other words, the CFO is unable to convincingly say—after two years of collecting taxes and one year of paying benefits—whether paid family leave is a roughly forty-million-dollar program or a roughly three-hundred-million-dollar program. This inability has real-world consequences. Businesses are paying *ten times* more in taxes than employees are able to receive in benefits, while workers receive inadequate amounts of paid time off from work to bond with a new baby, recover from medical treatment, or provide care and companionship in the last days of a loved one.

### **Programmatic Adjustments**

This subtitle would also make several programmatic changes to increase access to the program, particularly for low-income workers who have barriers to the program under current policies or who will be disadvantaged upon returning to work post-COVID in the absence of policy adjustments.

#### Post-COVID return to work

When workers laid off or furloughed during the pandemic return to employment this Fall, they will face two consequences of the pandemic in the context of paid leave, on benefit amounts and on access to job protection. Therefore the Committee recommends two changes:

*Expanding the wage base lookback period post-COVID.* Currently, paid leave benefit amounts are based on the previous year’s earnings (highest four quarters of the previous five quarters.<sup>103</sup> Following COVID, many workers’ earnings over the prior year will be low or zero. This means that their paid leave benefits will be a portion of that low or zero dollar amount. The Committee would like to “hold harmless” these workers and make sure that they are not penalized in the amount of benefits because of job and income loss during the pandemic. The Committee recommends expanding the wage base lookback period from 5 quarters to 10 quarters for the year following the end of the public health emergency.

*Restoring FMLA eligibility post-COVID by aligning DCFMLA with federal regulations.* Workers who take paid leave receive job protection (i.e. the right to return to

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<sup>103</sup> Note that earnings does not include unemployment benefits because no UI benefits are not wages reported by an employer in the PFL employer contributions system.

their jobs after their leave) under the DC Family and Medical Leave Act (DCFMLA), not the UPLA. Currently, DCFMLA has a tenure requirement that differs from the federal FMLA. Under both District and federal law, workers must have one year's tenure with their employer to be eligible for FMLA; however, in the District, that one year must be consecutive immediately prior to the leave,<sup>104</sup> while in federal regulations it can be during the previous seven years.<sup>105</sup> Under current DC law, when workers laid off due to COVID return to their jobs, even those who had been with their employers for more than one year will be ineligible for DCFMLA for the first year post-COVID; this is because the months were not continuous immediately before the leave was taken. The Committee recommends amending DCFMLA to allow the 12 months' tenure to be met whether it was continuous or within the prior seven years, as in federal regulations. This will make sure workers who were eligible for DCFMLA before the pandemic retain that eligibility after the pandemic if they return to work with their same employer.

#### Permanent programmatic changes

As the paid leave program has gotten under way, experience has shown where there can be improvements. The Committee recommends the following three changes:

*Allow for retroactive claims for paid leave benefits.* Under current agency regulatory interpretation, paid leave claimants may not receive medical or family leave benefits for leave taken prior to the filing of their paid leave benefits claim.<sup>106</sup> The Council did not intend for this narrow interpretation of the law. Moreover, this is considerably limiting for claimants in that full benefits are available only if one files for a claim on the date of their qualifying leave event. While DOES has established a procedure for retroactive pay when late claims are due to "exigent circumstances," the process should be simpler and broadly available. The Committee recommends that claimants should have 30 days after their leave event and start of their actual leave in which to file their claims and receive retroactive benefits. This will ensure that they do not need to focus on paperwork while experiencing a health crisis. The Committee recognizes that there many scenarios where even 30 days may not be possible, and thus it recommends that claimants should be able to file within 180 days of a leave event utilizing DOES' current exigent circumstances process.

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<sup>104</sup> § 32-501(1).

<sup>105</sup> 29 U.S.C. S. 2611(2)(A)(i)

<sup>106</sup> Parental leave benefits are allowed for one year following the birth or adoption of a child. DOES' preamble to the final regulation on benefits states: "DOES maintains that the Act generally does not contemplate DOES paying for leave taken before an applicant submitted a claim to DOES. The only occasion in which the Act addresses the time period for which a claimant may seek benefits is in sec. 104(d), which states: 'An eligible individual may submit a claim for payment of his or her paid-leave benefits for a period during which he or she does not perform his or her regular and customary work.' The present-tense construction of this provision leads to the conclusion that the Act generally does not contemplate paying retroactive claims for leave taken in the past." (See package for PR23-647, "Rulemaking for Paid Family Leave Benefits Approval Resolution of 2020," Jan. 6, 2020, page 5 of pdf, available at <https://lms.dccouncil.us/downloads/LIMS/43947/Introduction/PR23-0647-Introduction.pdf>).

*Remove the waiting week.* Current law requires a “waiting week,” which means that workers do not receive paid leave benefits for the first week following their qualifying leave event. This is a barrier for workers to receive PFML benefits, most significantly for medical and caregiving leave. This creates two challenges: first, workers with short leaves of less than a week will not benefit from the program. If a worker or her loved one experiences an acute, short term medical emergency, it is likely that she will not be eligible for benefits (during the waiting week), or for so few benefits (following the waiting week) that it is not worth going to the trouble to apply. For example, a woman who needs 4 days off to attend to her husband who is having surgery will not be eligible to receive paid leave benefits for those days because of the 7-day waiting period. Second, it also means that workers must dip into what can be precious little sick leave, when it would be better for them to save their sick leave for when they have an illness—such as cold or flu—for which they are not eligible for paid leave benefits. And finally, low-wage workers cannot afford to lose even a week’s pay. Therefore, the Committee recommends removing the waiting week.

*Provide leave regardless of current employment status.* Another DOES regulatory interpretation requires claimants to be employed at the time of their claim filing. This provision means that unemployed workers are denied a paid leave benefit, despite the fact their employer contributed to the system. It also contradicts the program’s design as a portable benefit. The Committee recommends amendments to explicitly state that individuals who are not employed at the time of their claim filing may submit a claim for paid leave benefits as provided under the law, if that individual would have otherwise been eligible to collect; it also restricts the Mayor from denying a claim from an individual solely because of that person’s employment status. Note that UPLA explicitly states that an individual receiving unemployment compensation is ineligible to receive a paid leave benefit.<sup>107</sup> This addresses any concerns that a worker will try to unfairly receive multiple benefits or “double dip.”

D.C. Code § 32-541.01(6)(A) defines an “eligible individual” as someone who has been “a covered employee during *some* or all of the 52 calendar weeks immediately preceding the qualifying event for which paid leave is being taken” (emphasis added). The inclusion of the word “some” serves two purposes. First, to ensure that an individual did not have to work for a certain period of time before being eligible for the benefit. This would allow a new worker to take paid time, if needed.<sup>108</sup> Second, to ensure that a worker whose employer has been paying into the system would still be able to collect the benefit, regardless of whether or not they were working at the time they needed to take the benefit. This committee, and paid leave advocates, believed that the employment requirement in the regulations has led to negative consequences. Not only did the requirement put D.C. out of sync with other paid leave programs in the country, this shuts out eligible individuals

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<sup>107</sup> D.C. Code § 32-541.07(e).

<sup>108</sup> Some opponents of the law raised concerns with this provision because it meant that a person could collect benefits starting on day one of their employment. Because the benefit is proportional to the amount of wages earned, the Committee of the Whole believed—and this Committee agrees—that there is no incentive for a worker to take unnecessary leave.

from receiving benefits if they lose their jobs—and tens of thousands of District workers did so during the coronavirus pandemic.

An employment eligibility requirement has the hardest effect on low-income workers and counters the law’s intention of providing a financial safeguard for those who need it the most during medical and family emergencies. Some workers will be unable to continue in their jobs due to the health condition for which they are taking leave; low-wage jobs are often physically strenuous. For example, a pregnant retail worker who lost or had to leave her job because she couldn’t stand all day would not be eligible for paid leave benefits once she gave birth—a time when she would need income the most.

And still other workers are ineligible for DCFMLA, particularly those in small businesses (workers in firms with less than 20 employees are ineligible for DCFMLA) or those with less than one year’s tenure with their employer. These tend to be lower income workers, as turnover is higher in lower-wage jobs than higher-wage jobs. These workers could be legitimately be let go because of their DCFMLA ineligibility when a health concern arises; if that happens before they file their claim, they would be ineligible for paid leave benefits under the current employment regulation.

For those reasons, the Committee recommends an explicit change to the law to allow unemployed individuals to have to access to paid leave benefits, as long as they are not receiving unemployment compensation.

#### Workplace Leave Navigators Grants

Finally, the Committee’s subtitle would repeal a grant program it created in the 2020 BSA, the Workplace Leave Navigators grant program. DOES did not support the creation of the grant program, and the Committee has determined through oversight that an alternative grant program at the Office of the Attorney General would be a better use of funds. The subtitle therefore repeals this program. See Chapter II.C.X for discussion of the related budget adjustment.

#### **c. Section-by-Section Analysis**

Sec. 4061. Short title

Sec. 4062. Amends the Universal Paid Leave Amendment Act of 2016 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq*)

- (a) Amends Section 101 (D.C. Official Code § 32-541.01) to add or amend definitions.
- (b) Amends Section 102 (D.C. Official Code § 32-541.02) to require regulations within 30 days after the effective date of the BSA or any expansion of benefits or change to the employer contribution rate.
- (c) Amends Section 103 (D.C. Official Code § 32-541.03) to reference a provision of new section 104a, which may reduce the employer contribution rate.

- (d) Amends Section 104 (D.C. Official Code § 32-541.04) to remove the waiting week; establish a timeline and procedure for retroactive leave claims; establish that the maximum number of weeks of leave for any qualifying event shall be the maximum number of weeks for parental leave available in the relevant fiscal year, except that pre-natal leave may be utilized in addition to parental leave; adds a new subsection (e-1) to establish the maximum duration of each of leave benefits for FY2021, FY2022, and beyond; and makes technical and conforming changes.
- (e) Adds new section 104a to provide for expansion of paid-leave benefits to the extent their fiscal impact is incorporated into fiscal estimates to be updated by the CFO annually on each March 1; require updated cost estimates from the Chief Financial Officer of any benefit expansions set forth in subsection (c) but not yet implemented; set out a process, timeline, and order to expand benefits, beginning with the adoption on a recurring basis of the one-time expansion of 6 weeks of medical leave and 2 weeks of pre-natal leave in FY2022; require the CFO to compute annually, after benefits have been fully expanded, a special contribution rate that will become the effective employer contribution rate if it is less than or equal to 0.62%; require the Mayor to provide a notice to employers of any benefit expansion or contribution rate reduction; and establish that the Mayor shall not deny benefits to an individual solely because the individual is not employed at the time of the individual's claim.

Sec. 4063. Amends the Universal Paid Leave Implementation Fund Act of 2016 (D.C. Law 21-160; D.C. Official Code § 32-551.01) to require that as of December 31, 2021 and the end of each subsequent quarter, the CFO compare the actual costs of leave benefits to the estimated costs, and if such estimate was three or more times greater than the actual costs, send a letter to Council disclosing this information; requiring that by September 30 of each year following full implementation of paid-leave benefit expansions and employer contribution rate reduction of 104a(c), the CFO shall review the Fund status against annual projections in the budget and financial plan and if there is an annual surplus, report to the Mayor and the Council on options to bring the revenues and expenditures into balance; authorizes the use of \$250,000 annually in Fund monies for the Workplace Rights Grants Program.

Sec. 4064. Amends the District of Columbia Family and Medical Leave Act of 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*) to align the 1-year tenure requirement with federal regulations to allow the requirement to be met by 1 year of work with in a 7-year period; and to toll the statute of limitations on claims while an administrative review is pending.

Sec. 4065. Repeals the Workplace Leave Navigators Program Establishment Amendment Act of 2020 (D.C. Law 23-249; D.C. Official Code § 32-561.01).

**d. Fiscal Impact Statement**

The gross fiscal impact is \$97,500,000.

## **B. RECOMMENDATIONS FOR NEW SUBTITLES**

The Committee on Labor and Workforce Development recommends the following new subtitles to be added to the “Fiscal Year 2022 Budget Support Act of 2021”:

1. Delayed Unemployment Compensation Payments Relief Amendment Act of 2021
2. IT Community Training and Advisory Board Establishment Act of 2021
3. DC Nurse Education Enhancement Program Amendment Act of 2021
4. School Year Internship Program Amendment Act of 2021
5. Jobs First DC Pilot Program Establishment Act of 2021
6. Heroes Pay Act of 2021
7. Workplace Rights Grants Program Establishment Act of 2021
8. [Click here to enter text.](#)
9. The Unemployment Compensation Improvements Amendment Act of 2021
10. District Government Employee Residency Research Amendment Act of 2021
11. Disability Insurance Overpayment Remedy Act of 2021
12. Medical Marijuana Program Patient Employment Protection Regulation Clarification Amendment Act of 2021
13. Subject to Appropriations Modifications Act of 2021

### **1. Title IV, Subtitle X, Delayed Unemployment Compensation Payments Relief Amendment Act of 2021**

#### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle will provide a payment of \$1,500 each to 10,000 District residents who endured extraordinarily long times before receiving their unemployment compensation payments.

#### **b. Committee Reasoning**

During the pandemic, the District saw a massive surge in applications for unemployment insurance. The Department of Employment Services received a year’s worth of applications in just two weeks. Ten days later, it had received another year’s worth of applications. By the end of 2020, the Department had received more than six times as many applications as it usually does in a year. The agency’s staff and the unemployment system’s aging computer system were quickly overwhelmed. Unfortunately, the administration was slow to dedicate more resources to the agency, leading to long delays in claims processing and lengthy wait times calls to the call center. As well, the surge in claims exposed outdated approaches to call center intake, claims tracking and administration and overall business processes.

As a result, while the agency typically attempts to process claims within three weeks of the initial application, many claimants had to wait months for their claims to be processed. During those months, claimants were left without any income to support themselves or their families. The Committee has received hundreds of emails from residents waiting for their unemployment compensation applications to be approved, with stories of empty bank accounts, reliance on out high-interest loans, mounting credit card debt, and despair, residents pleading for their claims to be processed. These claimants, who were qualified for unemployment insurance, were left to wait for months with little to no information on the status of their claim, spending dozens of hours on hold with the unemployment compensation call center.

This subtitle seeks to provide additional compensation to those claimants who were forced to wait for months for their claims to be approved, many who were left waiting through no fault of their own. The legislation requires the District identify the 10,000 claimants with the longest wait times between their initial application and their first payment. These claimants would then automatically receive \$1,000 one-time payments from the District. The payments would be on top of their unemployment compensation, and would be to compensate them for the financial and emotional toll of the dysfunction of the District's unemployment compensation system.

**c. Section-by-Section Analysis**

Sec. xx1. States the short title.

Sec. xx2. Directs the Director of the Department of Employment services to issue \$1,500 payments to the 10,000 claimants with the greatest number of days between the filing of their initial claim and first payment. Eligible claimants must be District residents, have filed for unemployment between June 1, 2020 and July 1, 2021, and have waited at least 60 days for their first payment.

**d. Fiscal Impact**

The fiscal impact of this subtitle is \$15.5 million.



## **2. Title IV, Subtitle X, Community IT Training and Advisory Board Establishment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would establish and fund an Information Technology Investment Program for the education of District residents in information technology jobs at the UDC Community College and through community training providers. The training would be informed by an Information Technology Occupation Advisory Board. The subtitle requires the Workforce Investment Council (WIC) to establish Memoranda of Understanding with the University of the District of Columbia (including the UDC-Community College and the Division of Workforce Development and Lifelong Learning) and the University of the District of Columbia Foundation, Inc., as well as to award training grants to community training providers. The subtitle establishes eligibility criteria, conditions of participation, and reporting requirements related to the program. Finally, the subtitle requires the WIC to research and analyze existing IT occupational advisory boards and make a recommendation to the WIC Board on the structure and membership of a new IT Occupational Board to advise future IT programming. The Board would vote on the recommendation.

### **b. Committee Reasoning**

The impact of the Coronavirus public health emergency pushed schools, work, and most services to a virtual platform. As a result, the existing demand for technology support increased across all business sectors, with a shortage of skilled worker supply. The demand will continue to grow with the arrival of Amazon headquarters (HQ2) in Northern Virginia. To ensure the District's residents are prepared and ready for hire, the Committee recommends funding and expanding IT training opportunities for District residents through a partnership with UDC Community College (UDC-CC, including the Division of Workforce Development and Lifelong Learning (WDLL), and to provide even more training capacity by funding grants to community training providers.

Over 80,000 District residents lost employment due to the Coronavirus health emergency. As the District pivots to recovery efforts, many of the residents displaced will need to reskill or upskill for new careers. The demand for IT workers in the District and the region creates a perfect scenario for preparing District residents for jobs available now and in the future. According to Computerworld blog post, "There are more than 3.6 million IT pro jobs in the US, Janco estimates. The monthly tech jobs report released by the CompTIA industry association calculated that there were 10,500 new US tech sector jobs in May, following gains in each previous month of 2021. The Washington, DC metro area had the most job postings, 21,611."<sup>109</sup> Hatch IT, a regional IT recruitment firm for startup tech companies, describes the District IT market as the fastest-growing tech hub:

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<sup>109</sup> Galen Gruman, Executive Editor for Global Content, Computerworld blog post June 7,2021, [US IT salaries start to grow as jobs growth remains steady](https://www.computerworld.com/article/3542681/us-it-salaries-start-to-grow-as-jobs-growth-remains-steady) available at: <https://www.computerworld.com/article/3542681/us-it-salaries-start-to-grow-as-jobs-growth-remains->

The DC region startup and technology scene is unlike any other, but that's exactly what makes it one of the nation's fastest growing tech hubs. The region is home to the federal government and the new headquarters for companies like Amazon. It's full of prestigious hospitals and top universities with amazing programs in healthcare, cybersecurity, and entrepreneurship.<sup>110</sup>

With the growth of IT jobs in the District, the Committee recommends the District workforce development system capitalize on the moment and scale the number of IT training providers in the District. Currently, the WIC maintains a list of eligible training providers (ETPL) approved to contract with the District government for occupational training with federal WIOA grant funds. There are only 14 providers on the list representing multiple industries, and not all have a contract with the District government. In PY2019, the American Jobs Centers (AJC) made a total of 111 referrals to ETPL providers for training, and not all of those individuals enrolled or completed. No participants were referred in PY2020. The District needs significantly more capacity to serve the newly unemployed residents in addition to those unemployed or underemployed before the pandemic or in need of a higher-paying job.

To expand the capacity of the District's IT training providers, the Committee recommends funding enhancements to and expansion of UDC, UDC-CC, the division of WDLL, and grants to community training providers. The Committee recommends doing this via MOUs between the WIC and UDC, in order to ensure that the WIC fulfills its role as a strategic, advisory, coordinating, and oversight body for the District's overall workforce system. The District's system is extremely siloed, and having one central agency coordinate the pieces will help ensure our system becomes aligned, non-duplicative, leverage other agency's work, and other benefits.

UDC (including UDC-CC and WDLL) has developed career pathways for information technology. Residents can secure occupational credentials at no cost through the WDLL. The UDC-CC then provides the next level of credentialing with the Associates in Applied Science in Computer Science Technology. Not stopping there, UDC offers advanced education with a baccalaureate program in Computer Science. Higher education may be intimidating and overwhelming for some residents, or they may require career and soft skills development concurrently with occupational credentialing. Therefore the subtitle includes a provision for grant funding to IT community training providers that also provide wraparound services; this can help provide an occupational credential as well as prepare some residents for eventual matriculation at UDC.

The subtitle also would establish an IT Occupational Advisory Board to address the ever-changing landscape of information technology skills. The advisory board is

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[steady.html#:~:text=With%20the%2047%2C700%20estimated%20job,in%20the%20US%2C%20Janco%20estimates.](#)

<sup>110</sup> Chris Mills, hatch IT blog post Nov. 11, 2019 [Washington DC is a unique tech hub. Don't expect it to be like Silicon Valley.](https://www.hatchit.io/https-medium-com-swlh-washington-dc-is-a-unique-tech-hub-dont-expect-it-to-be-like-silicon-valley-9806d38884af/) available at: <https://www.hatchit.io/https-medium-com-swlh-washington-dc-is-a-unique-tech-hub-dont-expect-it-to-be-like-silicon-valley-9806d38884af/>

intentionally named “Occupational” because IT crosses every work sector, and the traditional board structure and composition may need to be augmented. The subtitle includes a timeframe and resources for the WIC to research, analyze, and recommend the best board structure for the District and requires approval via a vote by the WIC Board.

Additionally, the Committee is eager for the WIC to establish sector partnerships as they are the most effective way to stay current on industry trends and changes. The IT Board will guide training providers on the required occupational credentials needed for hire now and in the future, modifications and enhancements to courses or curriculum, and recommendations on future training offerings.

**c. Section-by-Section Analysis**

- Sec. 1XX1. States the Short title.
- Sec. 1XX2. Definitions
- Sec. 1XX3. Establishes the program
- Sec. 1XX4. Program eligibility
- Sec. 1XX5. Program participation
- Sec. 1XX6. Memoranda of Understanding
- Sec. 1XX7. Establishes training grants
- Sec. 1XX8. Program performance and reporting
- Sec. 1XX9. Program Funding
- Sec. 1X10. Establishes the Advisory Board
- Sec. 1X11. Advisory Report

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is \$874,000 budgeted for FY2022 MOU’s with UDC and the UDC Foundation, and budgeted for grants of \$1,875,000; one FTE is funded for administration at \$121,000 (salary and fringe) and \$100,000 for technical writing and grantmaking support. The Committee has identified full funding for FY2022-2024 with ARPA funds.

<b>INFORMATION TECHNOLOGY</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>Total of 3 years</b>
Salary for WIC Program Manager - IT training (1 FTE Grade 13/5)	\$100,926	\$102,692	\$104,489	\$308,107
Fringe for WIC Program Manager - IT training (1 FTE Grade 13/5)	\$20,387	\$20,871	\$21,367	\$62,625
Contractor for Technical Writing/Grant making support (NPS)	\$100,000	\$0	\$0	\$100,000
UDC Funding - IT	\$874,000	\$538,258	\$547,677	\$1,959,935
Grants for Community Training Providers	\$1,875,000	\$1,875,000	\$0	\$3,750,000
WIC Total without Grants to Training Providers	\$1,095,313	\$661,821	\$673,533	\$2,430,667
<b>Total by Year</b>	<b>\$2,970,313</b>	<b>\$2,536,821</b>	<b>\$673,533</b>	
			<b>Gross Cost</b>	<b>\$6,180,667</b>

### **3. Title IV, Subtitle X, DC Nurse Education Enhancement Program Amendment Act of 2021**

#### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would establish and fund a Nurse Education Enhancement Program for the education of District residents in nursing occupations at the UDC Community College, and through community training providers. The subtitle requires the WIC to establish Memoranda of Understanding with the University of the District of Columbia (including the UDC-Community College and the Division of Workforce Development and Lifelong Learning) and the University of the District of Columbia Foundation, Inc., as well as to award training grants to community training providers. The grants would have a particular focus on health services for aging adults. The subtitle establishes eligibility criteria, conditions of participation, and reporting requirements related to the program.

#### **b. Committee Reasoning**

The impact of the Coronavirus public health emergency increased the demand for healthcare professionals in an already stressed sector.

The elderly population is also in particular need of health care staff, particularly home health aides (HHA) and certified nursing assistants (CNA). According to the District of Columbia State Plan on Aging, 2019-2022, DC has an estimated total population of 618,170 residents. The older population, age 60 and older, is 113,644 or 16.5% of the total population. This represents an increase of 12.75% since 2010 or an additional 12,855 seniors. The District's senior population is projected to grow to 17.4% by 2030 continuously. More than half of seniors live alone (56.7%).<sup>111</sup>

Nursing facilities assisted living facilities, and home care agencies have always faced challenges in recruiting and retaining qualified Direct Care and nursing staff to care for older adults. Prior to COVID, it was estimated that District residents needing Long Term Care Services and Supports to available caregivers was 3 to 1, a ratio that will worsen based upon current demographic trends. The public health emergency (PHE) caused by COVID accelerated the growing shortage of direct care workers and has made it much harder for current employers to find and keep qualified workers.

Following the declaration of the PHE, the DC Long Term Care Coalition working with LeadingAgeDC, the DC Health Care Association, the DC Home Health Association, Capitol Hill Village, Home Care Partners, and DC Appleseed fielded two surveys, one for home health agencies and another for nursing facilities, assisted living and life span

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<sup>111</sup> Laura Newland, Director, Department on Aging and Community Living, July 18, 2018, "2019-2022 District of Columbia State Plan on Aging," available at: <https://dacl.dc.gov/page/district-columbia-state-plan-aging-2019-2022>.

communities and adult day health providers to understand better the workforce needs of employers serving seniors who need long term care.<sup>112</sup> Notable findings included:

- Over 50 percent of home health agency respondents stated they did not have enough Home Health Aides (HHA) to staff all of their clients on every shift.
- Institutional providers reported that approximately 1/5 of Certified Nursing Assistants (CNA) positions are vacant.
- Virtual schooling and childcare issues are contributing to staff recruitment and retention problems.
- Across all care settings, providers reported that direct care staff are leaving the workforce or not reporting to work.
- An important finding from the survey showed that the vast majority of CNAs who care for District residents do not live in DC.

Employers across all sectors reported that COVID was making it harder for them to hire new staff while existing CNAs and HHAs were leaving the workforce or simply not reporting for work. Across all sectors, the vast majority of existing employers were concerned or extremely concerned about meeting their future staffing needs.

The DC Board of Nursing (BON) must approve all nurse training programs for nursing fields. There are seven approved CNA programs, seven approved HHA programs, and seven approved Licensed Practical Nurse (LPN) and Registered nurse (RN) programs. Advocates testified to the Committee during the performance and budget oversight hearings on the dire need to train and hire many more CNAs and HHAs. Currently, the WIC maintains a list of eligible training providers (ETPL) approved to contract with the District government for occupational training with federal WIOA grant funds. There are only 14 providers on the list and only two provide training in healthcare fields. The District needs significantly more capacity to serve the newly unemployed residents in addition to those unemployed or unemployed before the pandemic or in need of a higher-paying job. The Committee recommends the District workforce development system capitalize on the moment and scale the number of Nursing Care training providers in the District.

To meet the hiring need, the Committee recommends the DC Nurse Education Enhancement Amendment Act of 2021 to fund and train District residents as CNAs, HHAs, LPNs, and RNs. The Committee recommends the WIC enter an MOU with UDC, in order to ensure that the WIC fulfills its role as a strategic, advisory, coordinating, and oversight body for the District's overall workforce system. The District's system is extremely siloed, and having one central agency coordinate the pieces will help ensure our system becomes aligned, non-duplicative, leverage other agency's work, and other benefits.

The subtitle will enhance the career pathway in nursing and complement the Healthcare Workforce Partnership Act (DC Code §32-1685), which the Committee established in the 2020 Budget Support Act. The present subtitle amends the Healthcare

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<sup>112</sup> DC Long Term Care Coalition studies on 1) "CNA Needs Assessment Survey;" 2) "COVID-19 Impact on HHA's Survey," available at: <https://www.dclongtermcare.org/workforce/>.

Workforce Partnership Act by requiring that an employer of long-term care services become a mandatory partner; the subtitle also requires the Partnership to submit feedback on the nursing care community training grants identified in this subtitle.

**c. Section-by-Section Analysis**

- Sec. 1XX1. States the Short title.
- Sec. 1XX2. Definitions
- Sec. 1XX3. Establishes the program
- Sec. 1XX4. Program eligibility
- Sec. 1XX5. Program participation
- Sec. 1XX6. Memoranda of Understanding
- Sec. 1XX7. Establishes training grants
- Sec. 1XX8. Program performance and reporting
- Sec. 1XX9. Program Funding

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is \$1,211,000 budgeted for MOU’s with UDC and the UDC Foundation and budget for community grants of \$900,000; one FTE is funded for administration (\$121,000). The Committee has identified full funding for FY2022-2024 with APRA funds.

<b>NURSING CARE</b>	<b>FY 22</b>	<b>FY 23</b>	<b>FY 24</b>	<b>Total of 3 years</b>
Salary for WIC Program Manager - Nurse training (1 FTE Grade 13/5)	\$100,926	\$102,692	\$104,489	\$308,107
Fringe for WIC Program Manager - Nurse training (1 FTE Grade 13/5) - Fringe	\$20,387	\$20,871	\$21,367	\$62,625
UDC Funding - Nursing	\$1,211,000	\$748,880	\$761,985	\$2,721,865
Grants for Community Training Providers	\$900,000	\$900,000	\$900,000	\$2,700,000
WIC Total without Grants to Training Providers	\$1,332,313	\$872,443	\$887,841	\$3,092,597
Total by year	\$2,232,313	\$1,772,443	\$1,787,841	
			Gross Cost	\$5,792,597

#### **4. Title IV, Subtitle X, School Year Internship Program Amendment Act of 2021**

##### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would amend the Youth Employment Act of 1979, effective January 5, 1980 (DC Law 3-46; DC Official Code § 32-242(a)(2A)) by making the School Year Internship Program permanent rather than a pilot program as established in the FY2021 Budget Support Act.

##### **b. Committee Reasoning**

In FY2021, the Committee recommended a one-year pilot program of a school year internship program for 250 youth not otherwise connected with internship offerings. The demand for participation far exceeded the funding budgeted for a pilot program: 884 youth applied to participate with little promotion and an extremely short application window. The Committee anxiously awaits the performance results for the pilot program. Additionally, an impressive number of youth testified at the DOES FY2021 performance and budget oversight hearings resulting in the development of the pilot program. The same youth returned to testify at the DOES FY2022 performance and budget oversight hearings to request making the program permanent and expanding it by an additional 100 slots and to suggest cost savings recommendations.

Year-round youth programming remains in demand. Not only does youth employment provide income for at-risk residents, but the career exposure and real-world work experience help develop interpersonal communication skills, develop positive adult role models, and offer connections for future career opportunities. Marcia Huff, Director of Youth Poverty Programs at The Young Women's Project, testified at the FY2022 DOES budget oversight hearing on the need for extending the School Year Internship Program.

High school students not only need early work experiences for development and training, but they also need paid work to help their families. Many of the youth on our staff have financial responsibilities within their families. Many of the youth on our staff who will testify today will talk about the need to pay for school items, household bills (internet, rent, utilities), and life essentials such as food, clothing (including school uniforms), their cell phone, and toiletries. At a young age, they feel the squeeze of their family's stretched budgets.

The Committee supports providing the District's youth with career exposure and skill development and recommends funding the School Year Internship Program Amendment Act of 2021.



**c. Section-by-Section Analysis**

Sec. 1XX1. States the Short title.

Sec. 1XX2. Amends The Youth Employment Act of 1979, effective January 5, 1980 (DC Law 3-46; DC Official Code § 32-241 *et seq.*) to establish the School Year Internship Program.

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is \$839,197 budgeted for FY2022; four FTEs is funded in FY2022 for administration at \$332,197 (salary and fringe), and \$497,000 for participant wages. The Committee has identified full funding.

School Year Internship Program (350 slots)						
		FY22	FY23	FY24	FY25	Total
Total PS (4 FTEs)		332,197	357,111	383,895	412,687	
NPS		10,000	10,175	10,353	10,534	
Intern wages		497,000	505,698	514,547	523,552	
		839,197	872,984	908,795	946,773	3,567,749

## **5. Title IV, Subtitle X, Jobs First DC Pilot Program Establishment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would establish a pilot grant program to assist District residents with barriers to employment to secure permanent employment in the immediate term. The pilot grant program will prioritize job placement rather than training and provide 12 months of progressive employment retention support and financial bonuses to residents and program providers. The District workforce system does not offer permanent employment placement support at the scale requested by many unemployed and underemployed District residents. The subtitle provides funding for the Department of Employment Services to issue grants for an employment services model that assumes employability, offers expedited job-readiness coaching, and helps participants obtain jobs quickly.

### **b. Committee Reasoning**

The primary source for job placement assistance in the District is the American Jobs Centers (AJCs). To receive employment services at the AJCs, residents must qualify for the eligibility defined by the federal law Workforce Innovation and Opportunity Act (WIOA). Not all residents meet the stated criteria, and often individuals experiencing homelessness and a history of criminal convictions do not utilize the AJCs.

Public witness Jean-Michael Giraud, President and CEO of Friendship Place, testified at the DOES FY2022 budget oversight hearing. Mr. Giraud explained a jobs first employment model, AimHire, utilized by Friendship Place.

AimHire has a proven record of efficiency and success working with individuals experiencing homelessness who face challenges such as those targeted by the Transitional Employment program.

The Job First model succeeds by connecting motivated job seekers and employers who are ready to hire. Our job specialists develop relationships with an array of employers to create opportunities for our clients. We help employers discover the unique assets of potential employees and overcome obstacles to employment, including educational background, homelessness, or a past criminal record.<sup>113</sup>

The AimHire model applied by Friendship Place placed 200 people experiencing or at risk of homelessness into jobs in 2020, including 84 Veterans First program participants. AimHire Jobs First program participants earned an average of \$15.85/hour.<sup>114</sup>

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<sup>113</sup> Testimony of Jean-Michael Giraud, President & CEO, Friendship Place before the Committee on Labor and Workforce Development budget oversight hearing regarding the Department of Employment Services, June 9, 2021.

<sup>114</sup> Friendship Place, Annual Impact Report 2020 available at: <https://friendshipplace.org/wp-content/uploads/2021/06/2020-Impact-Report-Friendship-Place-Web.pdf>.

Additionally, another jobs first program in the District, Jubilee Jobs, has experienced similar success placing residents with barriers to employment. “In 2020, Jubilee Jobs placed 241 people in jobs-51 percent received public assistance, 40 percent were returning citizens, 25 percent were homeless, and 28 percent were Emerging Leaders (ages 16 to 29).”<sup>115</sup> The Committee was impressed with the job placement results of these two agencies in a year with a public health pandemic and the challenges faced by the program participants.

Residents with criminal records have fewer options for assistance than their counterparts without a history of criminal convictions. The DOES Project Empowerment is one of the few services available to returning citizens in the District. Project Empowerment is an existing program with a mixed record of success. Presently, Project Empowerment serves 700 residents with barriers to employment. The program provides a three-week job readiness program, after which participants are placed at an employer host site for six months to gain work experience. A small number of participants are enrolled in occupational credential training programs in the community. Participants are paid \$10 per hour (a subminimum wage) for a maximum of 30 hours per week. As a result, a participant’s maximum earnings are \$7,200.

Before the pandemic in FY2018 and FY2019, Project Empowerment averaged a 47% permanent employment rate for completers.<sup>116</sup> These results do not account for attrition during the program, including participants who do not complete the job readiness, do not enter subsidized employment, or do not complete subsidized employment. These results are quite similar to those concluded in a Rockefeller Foundation funded evaluation of subsidized employment programs after the 2009 American Recovery and Reinvestment Act (ARRA).<sup>117</sup> At that time, Congress included funding for states to expand existing subsidized employment programs for Temporary Assistance for Needy Families (TANF) participants. While the models varied across states, the program collectively created more than 260,000 subsidized jobs. However, only one of the four states in the study saw increased earnings for participants in subsidized employment programs. While 63% of employers created jobs specifically for the program participants, employers reported retaining only 37% of the participants after the subsidy period ended. The most common reasons given for not retaining workers were poor attendance and other performance issues.

Given the results of subsidized employment training programs, the Committee is concerned about the 53% of Project Empowerment completers who do not secure permanent unsubsidized employment. Participants who complete the program should have better long-term career prospects than Project Empowerment has been able to deliver so far. The Committee is also cognizant that some District residents want employment

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<sup>115</sup> Jubilee Jobs, blog post May 14, 2021, [May 2021 Newsletter](https://www.jubileejobs.org/blog/may-newsletter), available at: <https://www.jubileejobs.org/blog/may-newsletter>

<sup>116</sup> Department of Employment Services, [FY2021 Agency Performance Oversight Responses](https://dccouncil.us/wp-content/uploads/2021/02/DOES-POH-2021-PreHearing-Question-Narrative-Responses-FINAL.pdf), Attachment Q103, available at: <https://dccouncil.us/wp-content/uploads/2021/02/DOES-POH-2021-PreHearing-Question-Narrative-Responses-FINAL.pdf>

<sup>117</sup> Anne Roder and Mark Elliott Economic Mobility Corporation. September 2013, [Stimulating Opportunity: An Evaluation of ARRA-Funded Subsidized Employment Program](https://www.rockefellerfoundation.org/wp-content/uploads/stimulating-opportunity-full-report.pdf), found at: <https://www.rockefellerfoundation.org/wp-content/uploads/stimulating-opportunity-full-report.pdf>.

immediately rather than training or subminimum wage subsidized employment which does not translate to a permanent job. Therefore, the proposed subtitle would provide funding to scale job placement models with proven success, emphasizing serving residents with barriers to employment, such as homelessness and criminal records.

**c. Section-by-Section Analysis**

Sec. 1XX1. States the Short title.

Sec. 1XX2. Definitions

Sec. 1XX3. Establishes the Program

Sec. 1XX4. Establishes grant requirements

Sec. 1XX5. Outlines participant eligibility requirements

Sec. 1XX6. Reporting

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is \$500,000 budgeted for FY2022 grants and \$500,000 for FY2023 grants, with total budget for grants of \$1,000,000; one FTE is funded in FY2022 for administration at \$105,000 (salary and fringe), and \$107,000 for FY2023 support. The Committee has identified \$1,212,000 full funding for FY2022-2023 with recurring ARPA funds.

## **6. Title IV, Subtitle X, Heroes Pay Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle establishes a Heroes Pay Grant Program, which would provide grants to District employers to give heroes pay to reward and thank workers who performed essential work during the pandemic. These workers risked their health and even their lives to ensure that communities had the resources and services that kept them going. The grants may also be used to reward work performed later in the pandemic, allowing employers to incentive new or returning employees with hiring pay. Finally, employers may find that one of the payments allowed under the legislation could be utilized to incentive new and returning employees as a sign-up or hiring bonus. The Committee has identified \$5 million for these grants and hopes that additional councilmembers will also contribute for a total of at least \$20 million; that would provide 38,000 workers with a \$500 payment.

### **b. Committee Reasoning**

The Coronavirus pandemic strained our economy like no recession seen in decades. Despite the risks to their own health, and even their lives, as well as to that of their families thousands of District workers continued working, doing the essential work that the rest of us relied on. They include restaurant workers, grocery store clerks, health care workers, people who took care of our elderly and persons with disabilities, ran hotels that participated in COVID mitigation, and many, many more. In the District, there were 400,000 essential workers, according to the Bureau of Labor Statistics.<sup>118</sup>

Many, if not most, essential workers worked without any expectation of added compensation. Congress and President Biden’s American Rescue Plan Act, which has provided the District with \$2 billion in funding, specifically allows for “premium pay” to reward pandemic essential workers. The District should take advantage of this funding to thank our essential workers.

This funding will also help businesses by boosting morale and helping them attract new or returning employees. Providing this bonus, which will be granted to employers to distribute to their workers, is voluntary, but no-cost to the employer. The Committee anticipates that many businesses will take advantage of this funding because they, too, want to reward and thank their workforce for their sacrifice.

The payments will be made in grant form to employers. Under the Program, eligible employers may receive two different payment amounts to provide to eligible workers. Employers may choose to provide one type or both, including two payments to the same worker:

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<sup>118</sup> Bureau of Labor Statistics, “Private Sector Essential Workers During the Pandemic,” available at <https://www.bls.gov/opub/td/2021/107-5-million-private-sector-workers-in-pandemic-essential-industries-in-2019.htm>.

- (1) Up to \$500 for each eligible worker who performed at least 100 hours of essential work between March 1, 2020 and April 30, 2021; and
- (2) Up to \$250 for each eligible worker who performed essential work for at least 50 hours after May 1, 2021.

The Committee is providing funding at the Workforce Investment Council to implement the grants. The WIC is a business-led body that strategizes, advises, and oversees the District's workforce system. The WIC works closely with the employer community, and implementing this grant will help inform even more District employers of the WIC's ongoing work. This will help the WIC to accomplish its long-term mission by connecting it to more employers. The legislation allows the WIC to utilize a third-party grantmaking entity. The legislation also points to and relies upon the ARPA regulations' definitions and other parameters to ensure that the funds are utilized in accord with the law.

**c. Section-by-Section Analysis**

- Sec. 1 Short title
- Sec. 2. Definitions.
- Sec. 3. Heroes Pay Grant Program establishment
- Sec. 4. Issuance of grants parameters
- Sec. 5. Reporting
- Sec. 6. Rulemaking authority

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is the amount budgeted for grants of \$5 million; up to 8.5% of the funding can be utilized for administration, including staff at the WIC. The Committee has identified full funding.

## **7. Title IV, Subtitle X, Workplace Rights Grants Program Establishment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle will establish a new grant program at the Office of the Attorney General for the purpose of providing grants to community-based organizations to educate and assist District workers on employment laws and to inform the OAG's work related to employment laws. This subtitle was developed in partnership with the Committee on Judiciary and Public Safety.

### **b. Committee Reasoning**

The District has established many workplace laws to ensure our workers are treated with dignity, paid appropriately, and provided time to care for themselves and families when necessary. However, District workers need assistance to learn of, understand, and take advantage of the rights afforded to them under these laws. The laws include minimum wage, overtime, and other wage-hour laws; paid sick time, universal paid leave, family and medical leave, and other workplace leave laws; and the unemployment insurance program.

Each of these areas of law can be complicated, particularly for a worker without formal training in the application of such laws. Knowing about a law or right is the first step to ensuring that the laws are realized, and being able to take steps to prevent or remedy noncompliance with such laws is necessary for full realization of the laws' purposes.

This grant program will provide resources to community-based organizations with roots in the community as well as with employment law expertise to educate and assist workers on their rights under District employment laws. As the Office of the Attorney General also enforces these laws, the on-the-ground information from community groups working directly with District workers will help inform the OAG's ongoing strategies and efforts to ensure full compliance with our laws.

The Committee hopes that these resources will expand upon work currently being done in the community, to help more workers receive the pay they are owed and access leave they are entitled to. The resources can also help organizations with community connections that have not previously worked on employment matters to begin to work more intentionally with their communities on worker issues. Additionally, the Committee hopes that organizations partner with one another to leverage each other's strengths.

Public witnesses at the Committee's budget oversight hearings discussed the need for more worker education, including one witness who had surveyed workers in the construction industry and found extremely high violations of our wage and hour laws.<sup>119</sup>

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<sup>119</sup> Testimony from Nikko Bilitza of DC Jobs with Justice, Clayton Sinyai of Catholic Labor Network, and Nikola Nable-Juris of First Shift Justice before Labor and Workforce Development Committee hearing on DOES FY2022 proposed budget, June 9, 2021.

Under the legislation, OAG may issue grants to eligible community based organizations, including legal services organizations, to serve District workers. The vast majority of workers will be low- and moderate-income. The grant activities may focus on outreach to workers along with worker education or legal services or both education and legal services. The Committee intends that applying organizations will present creative, thoughtful proposals for the work they would like to undertake. Grantees will be required to collect data to present to OAG and the Council on the people served, and activities provided under the grants. The Committee has identified full funding for this subtitle.

**c. Section-by-Section Analysis**

Sec. 1. Short title.

Sec. 2. Amends subtitle J of the Fiscal Year 2020 Budget Support Act of 2019 to establish the Workplace Rights Grants Program as follows:

Sec. 2091. Short title.

Sec. 2092. Establishes definitions.

Sec. 2093. Establishes the Workplace Rights Grants Program and lays out parameters for grant administration.

Sec. 2094. Establishes grantee eligibility requirements

Sec. 2095. Outlines parameters for the grant activities

Sec. 2096. Establishes transparency and reporting requirements for grantees and the OAG.

Sec. 3. Amends the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to provide grantmaking authority for the Workplace Rights Grants Program and authorize use of the Litigation Support Fund.

**d. Fiscal Impact Statement**

The fiscal impact of this subtitle is the amount budgeted for grants of \$750,000 plus 1 FTE at Grade 13 in the amount of \$117,899 to serve as a grant administrator. The Labor and Workforce Development Committee has identified full funding.



**8.**

## **9. Title X, Subtitle X, The Unemployment Compensation Improvements Amendment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle will initiate several improvements to address problems that arose during and resulting from the coronavirus pandemic. It has four components, three of which are amendments to the District’s unemployment compensation law. First, it would permanently waive the experience rating of benefits paid to workers unemployed due to COVID-19, thereby holding harmless their employers and avoiding potential tax rate increases. Second, it would require during public emergencies that DOES halts any existing lawsuits in Superior Court (“civil actions”) against former unemployment insurance recipients who are being sued or are about to be sued by the District for repayment of benefits that the agency determined they were not entitled to. Third, the subtitle would clarify that an employee who voluntarily quits unsafe work due to an unsafe workplace is eligible for unemployment benefits and eliminates the need for an employee to choose between being injured or harmed by a dangerous workplace or condition and unemployment insurance support. Finally, the subtitle outlines two user-friendly informational videos the Department will be required to procure in order to explain two of the most common issues claimants experience when filing their weekly unemployment claim.

### **b. Committee Reasoning**

#### *Experience rating*

More than 200,000 District workers filed for unemployment insurance benefits since the start of the coronavirus pandemic in March 2020. Normally, the benefits paid to UI claimants are “charged” to employers’ individual accounts; those charges or “ratings” drive tax rates.<sup>120</sup> More charges may translate into higher tax rates, and there is a three-year lookback period in determining tax rates each year. However, during economic recessions and other times during which employers are largely not at fault for the layoffs that occur, the District and other states waive the “experience rating” for those benefits.

The COVID pandemic unfortunately resulted in high numbers of layoffs and furloughs. The Committee recommends that the benefits paid to those workers should not count against their employers. Additionally, the DC Chamber of Commerce submitted written testimony calling for legislation to “hold harmless COVID-19 related claims that may occur *after* the public health emergency restrictions are lifted.”<sup>121</sup> The Council waived the experience rating for COVID-related benefits in emergency legislation, but the waiver lasts during the public health emergency. It is likely that many employees will continue to be unemployed and drawing UI benefits even after the formal end of the public health

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<sup>120</sup> Rates are based on the account, which is a formula: contributions paid in minus benefits paid out to former employees divided by the taxable wages paid. That experience rating is then converted to the tax rates outlined in the law.

<sup>121</sup> See attachment C to this report.

emergency. These post-PHE benefits and the three-year lookback persuade the Committee that those benefits should not be charged at any time. This language would accomplish that goal.

### *Overpayment lawsuits*

The purpose of this legislation is to provide the same type of moratorium on collections of overpayment debts (i.e., where UI claimants are alleged to have received more than they were entitled to) that applied to the collection of all other consumer debts since the onset of the District's public health emergency. As a result of this legislation, DOES will be temporarily prevented from pursuing these debts in court and can only resume these lawsuits 90 days after the end of fiscal year 2022 and, in future public emergencies, 90 days after they end. Since existing law provides for the negotiation, settlement, and waiver of these debts, this subtitle clarifies that these can proceed during the stay period. The bill will also clarify that a three-year statute of limitations on these collections shall apply, as no statute of limitations is otherwise provided for in the law.

Emergency laws passed by the Council in March and April 2020 stopped the collection of credit card and other debts during the public health emergency, but did not apply to lawsuits by DOES to recover purported UI debts. The agency continued to pursue debts against former claimants despite the physical and mental health toll the pandemic inflicted on them. There are less than one hundred active cases like this annually, but many of them last for years.<sup>122</sup> By halting these lawsuits in FY2022 and for three months after (as well as in future declared public emergencies), the subtitle will provide the same relief to these individuals that was extended to those owing credit card, rent, and other debts during the pandemic and while these people get back on their feet. The stay will not just alleviate the stress of ongoing litigation, but will provide a claimant with an opportunity to gather evidence in support of their claim, seek legal support if they desire, or settle the claim without the pressure of a court date. Even though DOES has the authority to waive and write off overpayment debts, there were only two overpayment waiver requests granted in part or in full in FY2020 and in the first three months of FY2021, by two individuals who resorted to filing lawsuits against DOES in order to achieve this. DOES will be required to notify defendants in existing lawsuits about the stay, the waiver process, and to negotiate with those who want to settle their debts.

The agency must put its resources toward reaching fair settlements or waivers of these debts. The Committee continues to find it concerning that DOES does not proactively inform and assist claimants who want to pursue the overpayment waiver process, as the waiver is a right codified in both federal and District law. The Director currently has broad discretion to waive unemployment overpayments and should use this discretion where the defendant is impoverished, unable to work, owes a debt due to mistaken understanding of

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<sup>122</sup> See, for example, DOES Responses to Fiscal Year 2020 Performance Oversight Questions, attachment Q049 listing 65 active court cases as of January 2020 when the responses were provided.

UI requirements<sup>123</sup>, where the evidence of the debt is incomplete, or where the DOES employees involved in processing the original claim are no longer available to testify about the underlying claim.

Another key protection in this subtitle is the application of a statute of limitations to collecting on the debt. A statute of limitations ensures that defendants in overpayment lawsuits have a level playing field when they have to appear in court against the government. One of the key functions of a statute of limitations is to ensure that legal disputes are resolved when evidence is still fresh and the people involved are still able to recall and testify about events accurately. The lack of a statute of limitations for DOES to sue former UI recipients means that there is a higher risk of inaccurate, unreliable, and missing information underlying the alleged debts. The statute of limitations for credit card debts and contracts in DC is three years, which is also the statute of limitations that applies if the law does not otherwise specify a time limit.<sup>124</sup>

The Legal Aid Society of the District of Columbia and the Claimant Advocacy Program (CAP) of the Metro Washington Council AFL-CIO have noted a recent uptick in Superior Court cases filed to recover overpayments from very old benefit years.<sup>125</sup> According to their testimony, DOES sued one former claimant in January 2020 on a ten year old overpayment. The defending claimant could not obtain records refuting DOES's charges because the employer that would have had those records had gone out of business. This illustrates the great disadvantage to claimants when the agency does not quickly pursue the overpayment. Moreover, a common refrain from hearing witnesses is that DOES routinely loses evidentiary documents emailed and mailed to the agency.<sup>126</sup> Therefore, in at least some of the cases the agency brings against former UI claimants, there is a chance that DOES overlooked information demonstrating the claimant's eligibility or the agency's error in finding that the person was not entitled to their UI payments.

There is no reason why the Office of Unemployment Compensation within DOES should be unable to collect on a debt it is owed within a more reasonable period of time. At its disposal are District residency, employment, licensing, and other information that can be used to locate former claimants, such as the national "new hire" database or commercial investigative databases. In addition, it can recover funds from District taxpayers via the offset process. DC is also party to an interstate agreement for garnishing wages and tax refunds from claimants that may have earnings in other states.

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<sup>123</sup> As described in the last paragraph of this section, the requirement that claimants report any earnings and their job search process can cause confusion and result in claimants receiving payments they do not qualify for.

<sup>124</sup> DC Code §12-301.

<sup>125</sup> Id.

<sup>126</sup> For example, claimant Laura Gardner testified at the September 16, 2020 Oversight Roundtable of the Committee on Labor and Workforce Development regarding District's Unemployment Compensation Program During the COVID-19 Pandemic that she sent in requested information only to be asked for the same information two weeks later.

### *Unsafe workplaces*

The provision codifying a worker's eligibility for UI due to an unsafe work environment would ensure the safety of workers and workplaces during and immediately after the cessation of the COVID-19 public health emergency, and codifies a long-standing Regulations providing that an unsafe workplace is considered good cause for purposes of unemployment eligibility after an employee voluntarily quits employment. The Council codified this rule in February of this year through the workplace safety measures approved by the Council in emergency (Act 24-26) and temporary legislation (Law 24-6). Both measures were passed unanimously.

### *Informative videos for UI claimants*

The videos required by this subtitle will help to address two challenging aspects of the weekly claims process for applicants: reporting "benefit year earnings" and the "work search" requirement.<sup>127</sup> Federal and District law bars employees from receiving full weekly benefits payments if they have received income from part-time work, among other reasons. Therefore, claimants are asked weekly whether they have worked for wages and must truthfully report the gross wages they have earned in the week when they performed the work. This can be challenging for claimants because the information must be provided to DOES before the employer is required to pay or report the wages to the employee, and for this reason, it can also vary in a way that pauses or even invalidates the unemployment benefits. According to the US Department of Labor, the main reason for overpayments in the District between 2016 and 2019 was "benefit year earning," which means that the claimant received wages or other income while they were receiving unemployment benefits. The agency will also explain to claimants in the second video what they must do in order to meet the "work search" requirement.

### **c. Section-by-Section Analysis**

Sec. XX01. Short title.

Sec. XX02. Amends section 3(c)(2) of the District of Columbia Unemployment Compensation Act as follows:

(a) Waive an employer's experience rating for benefits paid related to COVID-19, including benefits that continue after the end of the public health emergency, at any time.

(b) Provide that "good cause" for leaving work, as it pertains to unemployment, includes working in unsafe locations or under unsafe conditions that would cause a reasonable and prudent person in the labor market to leave the work.

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<sup>127</sup> According to the Unemployment Insurance Program Alternate Year State Quality Service Plan for FY2020, included as Attachment 113 to FY2020 DOES Performance Oversight Responses, available at: <https://dccouncil.us/labor-and-workforce-development-3/>

(c) *Statute of limitations*

Establishes a limitation for initiating a lawsuit within three years from the date a claimant was paid more unemployment benefits than they qualified to receive (“overpayment”).

*Stay of civil actions*

In FY2022 and any public emergency, and for 90 days thereafter, prevents the Director from filing or threatening to file a lawsuit (“civil action”) to collect an overpayment debt, to communicate with the defendant about a lawsuit except as legally required or necessary to implement the subtitle. Provides that pending civil actions by the Director are stayed and shall not be violated by the Director. Settlements entered into during the stay period must comply with this subtitle or they are not shall not be valid or enforceable.

*Notice to defendants*

Requires the Director to notify the people who had lawsuits against them about their right to ask for the debt to be waived, to provide information about an overpayment or its waiver to the person who was sued, and to negotiate to settle existing debts. The Director is required to keep proof that the notice to the claimant was sent by a method reasonably calculated to reach the person. If the Director cannot show compliance with this subtitle, any settlements entered into shall not be valid or enforceable.

*Tolling and post-stay*

The period stayed in the emergency is tolled, meaning that the time when a lawsuit was stayed doesn’t count toward the counting of the three-year period. At the conclusion of the stay period, the Director is required to make reasonable efforts to resolve any lawsuits that are slated to resume via settlement.

Sec. XX03. *Informational videos*

(a) This section requires the Mayor to produce two informational videos in FY2022 explaining two requirements of the weekly unemployment claims process to claimants.

(b-c) The first video will explain the UI program’s rules regarding the requirement that claimants report weekly to the Department of Employment Services any earnings they receive during their benefit year, and the second will tell claimants how to conduct their job search so that they remain qualified for unemployment.

(d) Each video is required to be in simple language, provide audio in English, Spanish, Amharic, Chinese, French, and other languages commonly spoken in the District.

(e) Requires that each video must have closed captions, be accessible on a mobile device, and be posted on commonly-accessed websites, shared on social media, and emailed to claimants.

(f) This section specifies that the videos shall be procured via a grant or a contract. It also states that the Mayor has to review the script for the videos and correct any misstatements related to federal or District law or procedures claimants must follow before the video is finalized. The Mayor must also inform the preparers of the video of ways to optimize the video's accessibility to claimants.

**d. Fiscal Impact**

The fiscal impact of this subtitle is \$40,000 recurring for video production and website hosting.

## **10. Title IV, Subtitle X, District Government Employee Residency Research Amendment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would require DCHR to produce a study of the residency patterns and choices of District government employees and applicants. The study would provide a comprehensive analysis about current patterns related to District government employees' jurisdictions of residence; barriers to higher rates of District residency; reasons for District residency; effectiveness of current residency-related policies; and factors or policies that, if changed, could increase the rates of District residency for District government employees. It would cover the workforce as a whole with particular attention to police officers and firefighters. It would consist of three components: a data analysis, a survey or focus groups of employees, and interviews with agency hiring directors.

### **b. Committee Reasoning**

The Committee strongly believes that our public servant workforce should be made up primarily of residents of the District. This strengthens the connections between our employees and the communities they serve, as well as helps contribute to our tax base. Unfortunately, year after year, we see little progress on increasing the portion of employees who are District residents.

DCHR would conduct research or hire an outside entity to analyze data, survey employees, and interview agency hiring directors. Each of these three components would conclude in a report shared with the Committee. The three reports' findings would be utilized to write one comprehensive report. The Committee expects that the findings will be instructive for policy development to increase the portion of District government employees who are residents.

### **c. Section-by-Section Analysis**

Sec. 1 Short title

Sec. 2. Amends the Jobs for D.C. Residents Amendment Act of 2007 to require a comprehensive study on DC government employee residency

- (a) Amends Section 101 definitions
- (b) Amends Section 108 with technical amendments
- (c) Adds a new section 107a, Study of District government employee residency

### **d. Fiscal Impact Statement**

The cost of the study is \$150,000. The Committee has identified full funding.



## **11. Title I, Subtitle X, Disability Insurance Overpayment Remedy Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle would require DCHR to notify and repay current and former District government employees who overpaid their disability insurance premiums, due to an error in the People Soft system. Approximately 18,000 current and former employees are affected and approximately \$9.6 million overpaid between 2007 and 2008, according to DCHR. The subtitle sets a deadline for resolution as the end of Fiscal Year 2022.

### **b. Committee Reasoning**

DCHR has determined that some employees have been over- or under-charged premiums for both short-term and long-term disability insurance over a period of years. This insurance is an optional program that DC government employees may purchase as part of their employee benefits package. DCHR's 2021 performance oversight responses state that DCHR originally became aware of the problem in July 2018. The cause was an incorrect formula in PeopleSoft, the personnel IT system.

The Committee has requested information on this problem since Fall 2018, when it learned of the problem. The Committee has held multiple meetings with DCHR, sent written requests for information, and asked for details at the 2021 performance oversight hearing. Unfortunately, DCHR has not been able to complete its analysis of the situation to determine how many people are affected, identify who is affected, or quantify how much money is owed to employees (past and current); nor has the agency notified any employees of the erroneous premiums they were charged or reimbursed any employees for the overpayments. At the budget hearing, the director reported that discussions among the parties' lawyers are ongoing, and resolution is expected sooner than the end of FY 2022.

DCHR must resolve this issue expeditiously and no later than the end of fiscal year 2022. This subtitle would require DCHR to notify any and all affected employees (past or current), and to reimburse any employees who overpaid their premiums. DCHR should make these payments regardless of whether they have been able to reach an agreement with the District's disability insurance vendor, The Standard, to recoup the overpaid monies. The fault of this problem lies with District government, not employees, and we owe full reimbursement with no further delay.

### **c. Section-by-Section Analysis**

Sec. 1 Short Title

Sec. 2 Definition

Sec. 3. Requirement to notify and repay premiums

Sec. 4. Sunsets the legislation 30 days after Council receipt of report with final details.

### **d. Fiscal Impact Statement**

This subtitle has no fiscal impact.

## **12. Title IV, Subtitle X, Medical Marijuana Program Patient Employment Protection Regulation Clarification Amendment Act of 2021**

### **a. Purpose, Effect, and Impact on Existing Law**

This subtitle amends the Medical Marijuana Program Patient Protection Amendment Act of 2020 to clarify that the Council has rulemaking authority only over Council employees.

### **b. Committee Reasoning**

This law extended employment protections to certain District government employees who are medical marijuana patients. The law provided rulemaking authority to the Mayor for most employees and provided rulemaking authority for the Council. The Mayor's signature transmittal letter indicated their interpretation that the legislation extended Council's rulemaking authority beyond Council employees.<sup>128</sup> This was not the intent of the language, and this subtitle will clarify that.

### **c. Section-by-Section Analysis**

Sec. 1. Short title

Sec. 2. Clarifies that the Council's rulemaking authority is for Council employees

### **d. Fiscal Impact Statement**

This subtitle has no fiscal impact.

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<sup>128</sup> Mayor Muriel Bowser, letter to Chairman Mendelson, December 17, 2020, available at [https://lms.dccouncil.us/downloads/LIMS/42678/Other/B23-0309-B23-309\\_signed.pdf](https://lms.dccouncil.us/downloads/LIMS/42678/Other/B23-0309-B23-309_signed.pdf).

**13. Title VII, Subtitle C, Subject to Appropriations Modifications**

**a. Purpose, Effect, and Impact on Existing Law**

This subtitle will repeal or revise the subject to appropriations provisions of laws that are being fully funded in this budget.

**b. Committee Reasoning**

The three laws are:

1. B23-309, Medical Marijuana Program Patient Employment Protection Amendment Act of 2020
2. B23-90, Commission on Poverty Establishment Amendment Act of 2020
3. B23-494, Ban on Non Compete Amendment Act of 2020

**c. Section-by-Section Analysis**

Sec. 1. Short title

Sec. 2. Repeals S2A for B23-309

Sec. 3. Repeals S2A for B23-90

Sec. 4. Amends S2A for B23-494 to defer applicability date to April 1, 2022.

**d. Fiscal Impact Statement**

The bill’s final, updated fiscal impacts are listed below:

**B23-494, Ban on Non Compete Amendment Act (DOES)**

<b>Item</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>Total</b>
Supervisory Program Analyst	\$59,670	\$121,428	\$123,553	\$125,716	\$430,368
Fringe	\$13,724	\$28,100	\$28,767	\$29,451	\$100,042
Equipment & NPS	\$1,500	\$3,000	\$3,000	\$3,000	\$10,500
Increase to OAH MOU	\$5,000	\$10,000	\$10,000	\$10,000	\$35,000
Public Relations Campaign	\$25,000	\$50,000	\$25,000	\$0	\$100,000
<b>Total</b>	<b>\$104,894</b>	<b>\$212,529</b>	<b>\$190,321</b>	<b>\$168,166</b>	<b>\$675,910</b>

**B23-309 Medical Marijuana Program Patient Employment Protection Amendment Act (OAG)**

<b>Item</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>Total</b>
Salary	\$115,260	\$117,277	\$0	\$0	\$232,537
Fringe	\$24,205	\$24,780	\$0	\$0	\$48,985
<b>Total</b>	<b>\$139,465</b>	<b>\$142,057</b>	<b>\$0</b>	<b>\$0</b>	<b>\$281,522</b>

**B23-90 Commission on Poverty Establishment Amendment Act of 2020 (DOES)**

<b>Item</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>Total</b>
Commission Staff (3 FTEs)	\$420,576	\$428,410	\$436,393	\$444,526	\$1,729,905
Consultant for Report Preparation	\$150,000	\$150,000	\$150,000	\$150,000	\$600,000
Travel Reimbursement for Appointed Members	\$1,710	\$1,710	\$1,710	\$1,710	\$6,840
Website Creation and Maintenance	\$25,000	\$25,000	\$25,000	\$25,000	\$100,000
Office Space, Furnishings, Supplies, Devices, and Software	\$59,962	\$43,212	\$43,212	\$43,212	\$189,598
Meeting, Listening Session, and Forum Expenses	\$10,000	\$10,000	\$10,000	\$10,000	\$40,000
<b>Total</b>	<b>\$667,248</b>	<b>\$658,332</b>	<b>\$666,315</b>	<b>\$674,448</b>	<b>\$2,666,343</b>

## **V. RECOMMENDATIONS FOR LOCAL BUDGET ACT**

The Committee does not make any recommendations for the Local Budget Act for FY2022.

## VI. COMMITTEE ACTION AND VOTE

On Wednesday, June 30, 2021, at \_\_\_\_p.m., the Committee on Labor and Workforce Development met to consider and vote on the FY 2022 operating and capital budget for agencies under its purview, the committee's recommendations for the FY 2022 Budget Federal Portion Adoption and Request Act, the FY 2022 Budget Local Portion Adoption Act, the FY 2022 Budget Support Act, and the committee's budget report. Chairperson Elissa Silverman (At-Large) determined the presence of a quorum consisting of herself and Councilmembers \_\_\_\_\_

[discussion]

There being no further discussion, Chairperson Silverman moved for approval of the committee's FY 2022 budget report, with leave for staff to make technical, editorial, and conforming changes to reflect the committee's actions. The committee's FY 2022 budget report was \_\_\_\_\_.

Chairperson Silverman asked if there was any additional business before the committee. Hearing none, the meeting adjourned at \_\_\_\_ p.m.

## VII. ATTACHMENTS

- A. Committee Adjustments
- B. Bill 24-285, Fiscal Year 2022 Budget Support Act of 2021 Recommended Subtitles
- C. Thursday, June 3, 2021, Wednesday, June 9, 2021, Friday, June 11, 2021, Wednesday, June 16, 2021, and Monday June 21, 2021, Fiscal Year 2021 Budget Oversight Hearing Witness Lists and Testimonies.

Scenario	Committee	Agency Code	Agency	Fund Type	Program	Activity	CSG	Proposed Change in FTEs	Resources/Budget	Adjustment	Recurring or One-Time Change	FY21	FY22	FY23	FY24	FY25	Comments	Legislation
Committee Recommendation	Committee on Labor and Workforce Development	AK0	Office of Labor Relation and Collective Bargaining	0100 - LOCAL FUND	3000	3005	0040		Budget	Reduction	One Time			(50,000)			Reduction to align with spending	
Committee Recommendation	Committee on Labor and Workforce Development	BE0	Department of Human Resources	0100 - LOCAL FUND	1000	1010	0040		Budget	Enhance	One Time		150,000				Budget for study of District employee residency	BSA District Government Employee Residency Research Amendment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	BE0	Department of Human Resources	0100 - LOCAL FUND	2700	2710	0011	2.00	Budget	Enhance	Recurring		116,524	118,563	120,638	122,749	Restore Positions 87396-HR Spec (Recruitment/Placement) and 87400-Customer Service Communication Spec	
Committee Recommendation	Committee on Labor and Workforce Development	BE0	Department of Human Resources	0100 - LOCAL FUND	2700	2710	0014		Budget	Enhance	Recurring		24,586	25,170	25,768	26,380	Restore Positions 87396-HR Spec (Recruitment/Placement) and 87400-Customer Service Communication Spec	
Committee Recommendation	Committee on Labor and Workforce Development	BE0	Department of Human Resources	0100 - LOCAL FUND	3000	3100	0011	1.00	Budget	Enhance	Recurring		63,530	64,642	65,773	66,924	Restore position 91284-Program Specialist (Career Pathways)	
Committee Recommendation	Committee on Labor and Workforce Development	BE0	Department of Human Resources	0100 - LOCAL FUND	3000	3100	0014		Budget	Enhance	Recurring		13,405	13,723	14,049	14,383	Restore position 91284-Program Specialist (Career Pathways)	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	2000	2200	50		Budget	Enhance	One Time		15,500,000				UI late payment compensation (DOES)	BSA Subtitle Delayed Unemployment Compensation Payments Relief Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	2000	2200	0040		Budget	Enhance	Recurring		40,000	40,000	40,000	40,000	Enhancement for informational videos	BSA The Unemployment Compensation Improvements Amendment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0050		Budget	Reduction	Recurring		(130,000)	(132,275)	(134,590)	(136,945)	Reduction to Office of Wage Hour community education grant program	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0012	(1.00)	Budget	Reduction	Recurring		(83,646)	(85,110)	(86,599)	(88,115)	Eliminate vacant position 92170-Wage & Hour Comp Spec	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0014		Budget	Reduction	Recurring		(19,740)	(20,209)	(20,689)	(21,180)	Eliminate vacant position 92170-Wage & Hour Comp Spec	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0041		Budget	Reduction	Recurring		(800,000)	(814,000)	(828,245)	(842,739)	Align budget with planned spending. Contract will be completed in FY21.	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0040		Budget	Reduction	Recurring		(54,000)	(54,945)	(55,907)	(56,885)	Policy choice that provides \$200k for OAH MOU and \$70k for ASSLA study	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0011	1.00	Budget	Enhance	Recurring		59,670	121,428	123,553	125,716	Program manager (supervisory program analyst) responsible for writing rules to implement the bill, promoting the bill's protections to employees, and investigating complaints received about employers violating the non-compete ban	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0014		Budget	Enhance	Recurring		13,724	28,100	28,767	29,451	Fringe for program manager	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0040		Budget	Enhance	Recurring		25,000	50,000	25,000		Public education campaign	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0040		Budget	Enhance	Recurring		5,000	10,000	10,000	10,000	MOU with OAH	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	3000	3200	0070		Budget	Enhance	Recurring		1,500	3,000	3,000	3,000	Equipment and NPS	B23-0494 - Ban on Non-Compete Agreements Amendment Act of 2019
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4250	0012		Budget	Reduction	One Time		(346,716)				Reduction in personnel service costs associated with Rapid Reskilling (ARPA County Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4250	0014		Budget	Reduction	One Time		(78,358)				Reduction in personnel service costs associated with Rapid Reskilling (ARPA County Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4250	0020		Budget	Reduction	One Time		(4,800)				Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4250	0050		Budget	Reduction	Recurring		(300,000)	(305,250)	(310,592)	(316,027)	Reduction to align budget with planned spending.	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4250	0050		Budget	Reduction	One Time	(100,000)					Reduction to align budget with planned spending.	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4250	0050		Budget	Reduction	One Time		(5,500,000)				Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4250	0070		Budget	Reduction	One Time		(12,800)				Reduction in nonpersonnel service costs associated with Rapid Reskilling (ARPA County Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4820	0050		Budget	Reduction	Recurring		(839,197)	(872,984)	(908,795)	(946,773)	Reduction; redirect to school year internship program	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4900	0050		Budget	Reduction	Recurring		(6,388,806)	(6,388,806)	(6,388,806)		Redirect to WIC's employer partnership program (ARPA State Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4900	0012	(2.00)	Budget	Reduction	Recurring		(158,577)	(158,577)	(158,577)		Redirect to WIC's employer partnership program (ARPA State Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4900	0014		Budget	Reduction	Recurring		(46,303)	(46,303)	(46,303)		Redirect to WIC's employer partnership program (ARPA State Funds).	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4810	0050		Budget	Enhance	Recurring		497,000	505,698	514,547	523,552	Enhancement for permanent school year internship program to serve 350 interns per year-wages	BSA School Year Internship Program Amendment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4810	0040		Budget	Enhance	Recurring		10,000	10,175	10,353	10,534	Enhancement for permanent school year internship program to serve 350 interns per year-NPS	BSA School Year Internship Program Amendment Act of 2021



Scenario	Committee	Agency Code	Agency	Fund Type	Program	Activity	CSG	Proposed Change in FTEs	Resources/Budget	Adjustment	Recurring or One-Time Change	FY21	FY22	FY23	FY24	FY25	Comments	Legislation	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4810	0011	4.00	Budget	Enhance	Recurring			255,792	274,975	295,599	317,769	Enhancement for permanent school year internship program to serve 350 interns per year-wages-salary	BSA School Year Internship Program Amendment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	4000	4810	0014		Budget	Enhance	Recurring			76,405	82,136	88,296	94,918	Enhancement for permanent school year internship program to serve 350 interns per year-wages-fringe	BSA School Year Internship Program Amendment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	4000	4810	0050		Budget	Enhance	One Time			2,000,000				Grant at DOES to a non-profit organization that has or seeks to start up a workforce development program for youths in Ward 7 and 8 in computer science, construction, and the creative economy sectors.	East of the River Career Pathways Grant Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	5000	5100	0050		Budget	Reduction	One Time	(1,500,000)						Reduction to align budget with planned spending	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	5000	5200	0050		Budget	Reduction	One Time	(400,000)						Reduction to align budget with planned spending	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	5000	5100	0050		Budget	Enhance	Recurring			500,000	500,000			Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	5000	5100	0011	1.00	Budget	Enhance	Recurring			85,000	86,000			Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS	5000	5100	0014		Budget	Enhance	Recurring			20,000	20,000			Enhancement for pilot employment placement program	BSA Jobs First DC Pilot Program Establishment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0620 - ENTERPRISE AND OTHER FUNDS	6000	6200	0050		Budget	Reduction	Recurring		(750,000)	(763,125)	(776,480)	(790,068)		Eliminate Workplace Leave Navigators Program	
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	7000	7400	11	3.00	Budget	Enhance	Recurring			325,526	331,223	337,019	342,917	Poverty Commission staff: Executive Director(CS Grade 17/18) and two other staff (CS Grade 12/5)	B23-90 Poverty Commission Establishment
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	7000	7400	14		Budget	Enhance	Recurring			95,050	97,307	99,618	101,984	Fringe for Poverty Commission staff	B23-90 Poverty Commission Establishment
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	7000	7400	40		Budget	Enhance	Recurring			186,710	186,710	186,710	186,710	Poverty Commission consultant for report preparation; travel reimbursement for appointed members; website creation and maintenance; meeting, listening session, and forum expenses.	B23-90 Poverty Commission Establishment
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0100 - LOCAL FUND	7000	7400	70		Budget	Enhance	Recurring			59,962	43,212	43,212	43,212	Poverty Commission office space equipment, devices, software, furnishings, and supplies	B23-90 Poverty Commission Establishment
Committee Recommendation	Committee on Labor and Workforce Development	CF0	Department of Employment Services	0150 - FEDERAL PAYMENTS					Resources	Other	One Time				(15,000,000)			Reduction in ARPA future year funds	
Committee Recommendation	Committee on Labor and Workforce Development	CG0	Public Employee Relations Board	0100 - LOCAL FUND	2000	2001	0040		Budget	Reduction	One Time	(40,000)						Align budget with planned spending	
Committee Recommendation	Committee on Labor and Workforce Development	CG0	Public Employee Relations Board	0100 - LOCAL FUND	2000	2001	0040		Budget	Reduction	Recurring		(50,000)	(50,875)	(51,765)	(52,671)		Align budget with planned spending	
Committee Recommendation	Committee on Labor and Workforce Development	CG0	Public Employee Relations Board	0100 - LOCAL FUND	2000	2002	0011		Budget	Reduction	One Time	(23,000)						Align budget with planned spending	
Committee Recommendation	Committee on Labor and Workforce Development	CH0	Office of Employee Appeals	0100 - LOCAL FUND	1000	1020	0040		Budget	Reduction	Recurring		(32,593)	(33,163)	(33,744)	(34,334)		Agency requested reallocation of budget from CSG 40 to CSGs 20 and 70 to support NPS expenditures.	
Committee Recommendation	Committee on Labor and Workforce Development	CH0	Office of Employee Appeals	0100 - LOCAL FUND	1000	1020	0020		Budget	Enhance	Recurring		6,500	6,614	6,729	6,847		Agency requested reallocation of budget from CSG 40 to CSGs 20 and 70 to support NPS expenditures.	
Committee Recommendation	Committee on Labor and Workforce Development	CH0	Office of Employee Appeals	0100 - LOCAL FUND	1000	1020	0070		Budget	Enhance	Recurring		26,093	26,550	27,014	27,487		Agency requested reallocation of budget from CSG 40 to CSGs 20 and 70 to support NPS expenditures.	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0011	2.00	Budget	Enhance	Recurring			158,577	158,577	158,577		ARPA funding for WIC's employer partnership program	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0014		Budget	Enhance	Recurring			46,303	46,303	46,303		ARPA funding for WIC's employer partnership program	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring			6,388,806	6,388,806	6,388,806		ARPA funding for WIC's employer partnership program	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0011	1.00	Budget	Enhance	Recurring			100,926	102,692	104,489		Program Manager (Grade 13/5) (ARPA)	BSA Subtitle B Community Training and Advisory Board Establishment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0014		Budget	Enhance	Recurring			20,387	20,871	21,386		Program Manager (Grade 13/5) (ARPA)	BSA Subtitle B Community Training and Advisory Board Establishment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0041		Budget	Enhance	One Time			100,000				Technical Writing/Grant making support contractor (ARPA)	BSA Subtitle B Community Training and Advisory Board Establishment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring			1,211,000	748,880	761,985		UDC Nursing Funding (ARPA funding)	BSA Subtitle B Nurse Education Enhancement Program Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring			874,000	538,258	547,677		UDC IT Funding (ARPA funding)	BSA Subtitle B Community Training and Advisory Board Establishment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0100 - LOCAL FUND	3000	3012	0050		Budget	Enhance	Recurring			500,000	508,750	517,653		Healthcare sector partnership training,	

Scenario	Committee	Agency Code	Agency	Fund Type	Program	Activity	CSG	Proposed Change in FTEs	Resources/Budget	Adjustment	Recurring or One-Time Change	FY21	FY22	FY23	FY24	FY25	Comments	Legislation
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring		1,875,000	1,875,000			Community Training Provider grants (ARPA funds)	BSA Subtitle B Community Training and Advisory Board Establishment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	One Time		5,000,000				Heroes Pay Act (ARPA funds)	BSA subtitle Heroes Pay Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring		900,000	900,000	900,000		Community training grants for HHA and CNA (ARPA funds)	BSA Subtitle DC Nurse Education Enhancement Program Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0011	1.00	Budget	Enhance	Recurring		100,926	102,692	104,489		Program Manager (Grade 13/5) (ARPA)	BSA Subtitle BC Nurse Education Enhancement Program Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0014		Budget	Enhance	Recurring		20,387	20,871	21,386		Program Manager (Grade 13/5) (ARPA)	BSA Subtitle BC Nurse Education Enhancement Program Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0050		Budget	Enhance	Recurring		4,475,069	4,475,069			Enhancement for career coaches at WIC; transfer from COW to load funds in correct agency (ARPA)	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0011	2.00	Budget	Enhance	Recurring		69,905	69,905			Enhancement for career coaches at WIC; transfer from COW to load funds in correct agency (ARPA)	
Committee Recommendation	Committee on Labor and Workforce Development	GW01	Office of the Deputy Mayor for Education	0150 - FEDERAL PAYMENTS	3000	3012	0014		Budget	Enhance	Recurring		18,026	18,026			Enhancement for career coaches at WIC; transfer from COW to load funds in correct agency (ARPA)	
Committee Recommendation	Committee on Labor and Workforce Development	UL0	Universal Paid Leave Fund	0620 - ENTERPRISE AND OTHER FUNDS	1000	6000	0050		Budget	Enhance	One Time		97,951,000				UPLA - additional 4 weeks medical	BSA Subtitle Universal Paid Leave Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	UL0	Universal Paid Leave Fund	0620 - ENTERPRISE AND OTHER FUNDS	1000	6000	0050		Budget	Reduction	One Time		(15,000,000)				Reduce domestic violence benefit	BSA Subtitle Universal Paid Leave Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	UL0	Universal Paid Leave Fund	0620 - ENTERPRISE AND OTHER FUNDS	1000	6000	0050		Budget	Reduction	One Time		(23,250,000)				Reduce pre-natal benefit	BSA Subtitle Universal Paid Leave Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development	UL0	Universal Paid Leave Fund	0620 - ENTERPRISE AND OTHER FUNDS					Resources	Revenue Proposal - Other	One Time		168,200,000				Maintain a 0.62% Universal Paid Leave payroll tax in FY22.	BSA Subtitle Universal Paid Leave Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer in	Recurring		667,248	667,248	667,248	667,248	Transfer in from Committee on Recreation, Libraries, and Youth Affairs for Poverty Commission	B23-90 Poverty Commission Establishment
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	Recurring		(139,465)	(142,057)			Transfer out to the Committee on Judiciary and Public Safety for a temporary FTE to litigate appeals associated with B23-309 Medical Marijuana Program Patient Protection Amendment Act.	B23-309 Medical Marijuana Program Patient Protection Amendment Act
Committee Recommendation	Committee on Labor and Workforce Development			0150 - FEDERAL PAYMENTS					Resources	Transfer out	One Time		(1,500,000)				Transfer out to the Committee on the Judiciary and Public Safety for eviction diversion coordination	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	New Local from Previous FY Shift	One Time		105,000,000				Excess Universal Paid Leave Fund balance converted to local	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	Recurring		(21,950,576)	(2,227,500)	(2,227,500)	(2,227,500)	Transfer to Committee on Business and Economic Development to implement the Making Unemployment Compensation Nontaxable Amendment Act Budget Support Act subtitle (DMPED)	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	One Time		(5,500,000)				Transfer to Committee on Human Services to provide incentive payments for unemployed District residents to complete STAY DC applications (DHS)	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	Recurring		(867,000)	(870,095)	(872,332)	(874,611)	Transfer to the Committee on the Judiciary and Public Safety for workplace rights grants (OAG)	BSA Workplace Rights Grants Program Establishment Act of 2021
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	One Time		(30,000,000)				Transfer to Committee on Business and Economic Development for grants to small, local, and minority owned businesses in the restaurant, retail, and hospitality sectors that saw significant revenue losses during the public health emergency and need assistance with paying back rent or other costs of reopening (DMPED)	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	One Time		(20,000,000)				Transfer to Committee on Business and Economic Development for excluded workers	
Committee Recommendation	Committee on Labor and Workforce Development			0100 - LOCAL FUND					Resources	Transfer out	One Time		(3,000,000)				Transfer out the Committee on the Judiciary and Public Safety for flexible funding for survivors of domestic violence and intrafamily offenses, sexual abuse, stalking, or human trafficking (ARPA)	
Committee Recommendation	Committee on Labor and Workforce Development			0150 - FEDERAL PAYMENTS				2.00	Resources	Transfer in	Recurring		4,563,000	4,563,000			Transfer in from COW to load funds for WIC career coaches in correct agency	
Committee Recommendation	Committee on Labor and Workforce Development			0150 - FEDERAL PAYMENTS					Resources	Transfer in	One Time		2,000,000				Transfer in from Business committee for grant at DOES to a non-profit organization that has or seeks to start up a workforce development program for youths in Ward 7 and 8 in computer science, construction, and the creative economy sectors.	East of the River Career Pathways Grant Act of 2021

SUBTITLE F. APPRENTICESHIP FINES

Sec. 4051. Short title.

This subtitle may be cited as the “Apprenticeship Fines Amendment Act of 2021”.

Sec. 4052. Section 5(c)(3) of the Amendments to An Act To Provide for Voluntary Apprenticeship in the District of Columbia Act of 1978, effective March 6, 1979 (D.C. Law 2-156; D.C. Official Code § 32-1431(c)(3)), is amended as follows:

(1) Strike the phrase “District of Columbia Public Schools” and insert the phrase “Department of Employment Services” in its place.

(2) Strike the phrase “, subject to appropriations by Congress”.

## SUBTITLE H. UNIVERSAL PAID LEAVE

Sec. 4061. Short title.

This subtitle may be cited as the “Universal Paid Leave Amendment Act of 2021”.

Sec. 4062. The Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 32-541.01) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

“(1) “Average weekly wage” means the total wages subject to contribution under section 103 earned by an eligible individual during the 4 quarters during which the individual’s wages were the highest out of the 5 quarters immediately preceding the qualifying leave event, divided by 52; except that, for claims filed after the applicability date of the Universal Paid Leave Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (Committee print of Bill 24-285), and before the 365th day after the end of the public health emergency, the term “average weekly wage” means the total wages subject to contribution under section 103 for the 4 quarters during which the individual’s wages were the highest out of the 10 quarters immediately preceding the qualifying leave event, divided by 52.”.

(2) A new paragraph (6A) is added to read as follows:

“(6A) “Employer contribution rate” means the uniform percentage of covered employees’ wages that covered employers must contribute to the Universal Paid Leave Fund, including the percentage of annual self-employment income that a covered employer who is a self-employed individual must contribute, as provided under this act.”.

(3) A new paragraph (11A) is added to read as follows:

“(11A) “Public health emergency” means the Coronavirus (COVID-19) public health emergency declared pursuant to Mayor’s Order 2020-045, on March 11, 2020, and all subsequent extensions.”.

(4) Paragraph (12) is amended to read as follows:

“(12) “Qualifying family leave” means paid leave that an eligible individual may take in order to provide care or companionship to a family member because of the occurrence of a qualifying family leave event.”.

(5) A new paragraph (13A) is added to read as follows:

“(13A) “Qualifying leave event” means a qualifying family leave event, a qualifying medical leave event, a qualifying pre-natal leave event, or a qualifying parental leave event.”.

(6) Paragraph (14) is amended to read as follows:

“(14) “Qualifying medical leave” means paid leave that an eligible individual may take following the occurrence of a qualifying medical leave event.”.

(7) Paragraph (15) is amended to read as follows:

“(15) “Qualifying medical leave event” means, for an eligible individual, the diagnosis or occurrence of a serious health condition, which shall include the occurrence of a stillbirth.”.

(8) Paragraph (16) is amended to read as follows:

“(16) “Qualifying parental leave” means paid leave that an eligible individual may take within one year of the occurrence of a qualifying parental leave event.”.

(9) A new paragraph (17A) is added to read as follows:

“(17A) “Qualifying pre-natal leave” means paid leave that an eligible individual who is pregnant may take for pre-natal medical care following the occurrence of a qualifying pre-natal leave event and prior to the occurrence of a qualifying parental leave event.”.

(10) A new paragraph (17B) is added to read as follows:

“(17B) “Qualifying pre-natal leave event” means the diagnosis of pregnancy by a health care provider.”.

(11) New paragraph (20A) is added to read as follows:

“(20A) “Stillbirth” means the loss of a pregnancy at 20 weeks’ gestation or later.”.

(12) Paragraph (21) is amended to read as follows:

“(21) “Universal Paid Leave Fund” means the fund established pursuant to Section 1153 of the Universal Paid Leave Implementation Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 32-551.02).”.

(b) Section 102 (D.C. Official Code § 32-541.02) is amended by adding a new subsection (c) to read as follows:

“(c) Within 30 days after the applicability date of the Universal Paid Leave Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (committee print of Bill 24-285), or of any expansion of benefits or change to the employer contribution rate pursuant to section 104a(c), 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 to implement the provisions of this act.”.

(c) Section 103 (D.C. Official Code § 32-541.03) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “0.62%” and inserting the phrase “0.62%, or a lower rate computed pursuant to section 104a(c)(2),” in its place.

(2) Subsection (b) is amended by striking the phrase “0.62%” and inserting the phrase “0.62%, or a lower rate computed pursuant to section 104a(c)(2),” in its place.

(d) Section 104 (D.C. Official Code § 32-541.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “qualifying family leave event, qualifying medical leave event, or qualifying parental leave event” and inserting the phrase “qualifying leave event” in its place.

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended by striking the phrase “and the one-week waiting period, if applicable”.

(4) Subsection (d) is amended to read as follows:

“(d)(1)(A) An eligible individual may submit a claim for payment of his or her paid-leave benefits for a period:

“(i) During which he or she does not or did not perform his or her regular and customary work because of the occurrence of a qualifying leave event; or

“(ii) Following the occurrence of a qualifying leave event, during which he or she is not employed and has not or will not receive benefits pursuant to the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 *et seq.*).

“(B) An eligible individual may receive retroactive paid-leave benefits pursuant to subparagraph (A)(i) of this paragraph only if he or she submits a claim within 30 calendar days after the qualifying leave event, or, within 180 calendar days after the

qualifying leave event if exigent circumstances prevent the claimant from filing a claim within 30 calendar days after the qualifying leave event; provided, that whenever the final day of such 30-day or 180-day period falls on a day that is a Saturday, Sunday, legal holiday, or day on which District government offices are otherwise closed, the deadline shall be deemed to fall on the next succeeding day when District government offices are open.

“(2) Except as provided in paragraph (3), within a 52-workweek period, an eligible individual shall not receive paid-leave benefits, for any number or combination of qualifying leave events, for a duration that exceeds the maximum duration of qualifying parental leave available in the fiscal year during which the individual files a claim for paid-leave benefits, as provided in subsection (e-1) of this section.

“(3) Within a 52-workweek period, an eligible individual may receive the maximum duration of qualifying pre-natal leave available in the fiscal year during which the individual files a claim for paid-leave benefits in addition to the maximum duration of parental leave available during such fiscal year, as provided in subsection (e-1) of this section; provided, that an eligible individual shall not receive any combination of qualifying pre-natal leave and qualifying medical leave for a duration that exceeds the maximum duration of qualifying medical leave available for the fiscal year during which the individual files a claim for paid-leave benefits.”.

(5) Subsection (e) is amended to read as follows:

“(e) The International Classification of Diseases, Tenth Revision (ICD-10), or subsequent revisions by the World Health Organization to the International Classification of Diseases, along with the health care provider or caretaker assessments, shall be used to determine the appropriate length of qualifying family leave an eligible individual is entitled to, based on the serious health



condition of the eligible individual's family member, or the appropriate length of qualifying medical leave an eligible individual is entitled to, based on the serious health condition of the eligible individual, subject to the limits set forth in subsection (e-1) of this section.”.

(6) A new subsection (e-1) is added to read as follows:

“(e-1)(1) Before October 1, 2021, the maximum duration of each type of paid-leave benefits within a 52-workweek period shall be:

“(A) 8 workweeks of qualifying parental leave;

“(B) 6 workweeks of qualifying family leave;

“(C) 2 workweeks of qualifying medical leave; and

“(D) Zero workweeks of qualifying pre-natal leave.

“(2) From October 1, 2021, through September 30, 2022, the maximum duration of each type of paid-leave benefits within a 52-workweek period shall be:

“(A) 8 workweeks of qualifying parental leave;

“(B) 6 workweeks of qualifying family leave;

“(C) 6 workweeks of qualifying medical leave; and

“(D) 2 workweeks of qualifying pre-natal leave.

“(3) Beginning October 1, 2022, and thereafter, the maximum duration of each type of paid-leave benefits within a 52-workweek period shall be determined pursuant to section 104a, but shall be no less than the maximum durations set forth in paragraph (1) of this subsection.”.

(7) Subsection (f) is amended to read as follows:

“(f) An eligible individual may receive payment for intermittent leave; provided, that the total duration of paid-leave benefits an individual receives in a 52-week period shall not exceed

the available maximum duration of paid-leave benefits available in the fiscal year during which the individual files a claim to receive paid-leave benefits, as provided in subsection (e-1) of this section.”.

(8) Subsection (g)(4) is amended to read as follows:

“(4) Medical, family, parental, and pre-natal leave benefits for partial weeks of leave shall be prorated.”.

(e) A new Section 104a is added to read as follows:

“Sec. 104a. Expansion of paid-leave benefits and employer contribution rate reduction.

“(a) By March 1, 2022, and annually thereafter for as long as any expansion of paid-leave benefits or the employer contribution rate reduction set forth in subsection (c) of this section has not been implemented, the Chief Financial Officer (“CFO”) shall update estimates of the projected cost of the paid-leave program established by this act and any paid-leave benefit expansions set forth in subsection (c)(1) of this section that have not yet been implemented.

“(b)(1) On or before March 1 of each year beginning with March 1, 2022, the CFO shall certify the:

“(A) Fund balance of the Universal Paid Leave Fund;

“(B) Projected annual revenues for the current fiscal year and future fiscal years, for the duration of the financial plan, to be deposited into the Universal Paid Leave Fund at the then-existing employer contribution rate;

“(C) Projected annual expenditures from the Universal Paid Leave Fund at the then-existing maximum paid-leave benefit durations; and

“(D) Projected fiscal impact of the paid-leave benefit expansions and employer contribution rate reduction set forth in subsection (c) of this section, which shall

include whether, and at what tier of expansion, the paid-leave benefit expansions and employer contribution rate reduction would cause the projected fund balance of the Universal Paid Leave fund to fall below the equivalent of 9 months of paid-leave benefits at the expanded tier.

“(2) The Mayor shall incorporate the certification required pursuant to paragraph (1) of this subsection into the Mayor’s annual submission of the District’s multiyear budget and financial plan to the Council, which shall reflect any paid-leave benefit expansions or employer contribution rate reduction required pursuant to subsection (c) of this section, as certified pursuant to paragraph (1) of this subsection.

“(3) A paid-leave benefit expansion or employer contribution rate reduction set forth in subsection (c) of this section shall apply as of October 1 of the year in which the paid-leave benefit expansion or employer contribution rate reduction will not cause the projected fund balance of the Universal Paid Leave Fund to fall below the equivalent of 9 months of benefits at the expanded tier, as certified pursuant to paragraph (1) of this subsection.

“(c)(1) Paid-leave benefits shall be expanded in the following order:

“(A) Extend the maximum duration of qualifying pre-natal leave by one or more workweeks, until the maximum duration of qualifying pre-natal leave equals 2 workweeks;

“(B) Extend the maximum duration of qualifying medical leave by one or more workweeks, until the maximum duration of qualifying medical leave equals 6 workweeks;

“(C) Extend the maximum duration of qualifying parental leave by one or more workweeks, until the maximum duration of qualifying parental leave equals 10 workweeks;

“(D) Extend the maximum duration of qualifying medical leave by one or more workweeks, until the maximum duration of qualifying medical leave equals 8 workweeks;

“(E) Extend the maximum duration of qualifying family leave by one or more workweeks, until the maximum duration of qualifying family leave equals 8 workweeks;

“(F) Extend the maximum duration of qualifying parental leave by one or more workweeks, until the maximum duration of qualifying parental leave equals 12 workweeks;

“(G) Extend the maximum duration of qualifying medical leave by one or more workweeks, until the maximum duration of qualifying medical leave equals 10 workweeks;

“(H) Extend the maximum duration of qualifying family leave by one or more workweeks, until the maximum duration of qualifying family leave equals 10 workweeks;

“(I) Extend the maximum duration of qualifying medical leave by one or more workweeks, until the maximum duration of qualifying medical leave equals 12 workweeks;

“(J) Extend the maximum duration of qualifying family leave by one or more workweeks, until the maximum duration of qualifying family leave equals 12 workweeks;

“(2)(A) By July 1 of the first fiscal year in which all paid-leave benefit expansions set forth in paragraph (1) of this subsection have been implemented, and annually thereafter, the CFO shall compute the special contribution rate described in subparagraph (B) of this paragraph. If the special contribution rate is less than 0.62%, the employer contribution rate for the next fiscal year shall equal the special contribution rate. If the special contribution rate is greater than or equal to 0.62%, then the employer contribution rate for the next fiscal year shall be 0.62%.

“(B) The special contribution rate shall be the uniform percentage of covered employees’ wages that covered employers must contribute to the Universal Paid Leave Fund, rounded to the nearest one-hundredth of 1%, so that the projected balance of the Universal Paid Leave Fund equals the sum of:

“(i) The projected costs for the next fiscal year of all benefits and administrative expenses authorized by this act; and

“(ii) The amount, if any, that the CFO determines necessary to restore the projected balance of the Universal Paid Leave Fund to the equivalent of 9 months of benefits.

“(d) Before implementation of any paid-leave benefit expansion or employer contribution rate reduction pursuant to this section, the Mayor shall prescribe and provide to covered employers an update to the notice required under section 106(i). The Mayor may conduct a public-education campaign to inform individuals of expanded benefits. Costs of the notice and campaign authorized under this subsection shall be payable pursuant to section 1153(c)(1) of the Universal Paid Leave Implementation Fund Act of 2016, effective December 3, 2020 (D.C. Law 23-149; D.C. Official Code § 32–551.02(c)(1)), from the Universal Paid Leave Administration Fund.”.

(f) Section 106(j)(1) (D.C. Official Code § 32–541.06(j)(1)) is amended by striking the final sentence.

(g) Section 107(e) (D.C. Official Code § 32-541.07(e)) is amended by striking the period and inserting the phrase “; provided, that the Mayor shall not deny paid-leave benefits authorized under this act to an otherwise eligible individual solely on basis of the fact that the individual is not employed at the time of applying for benefits.” in its place.

Sec. 4063. The Universal Paid Leave Implementation Fund Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 32-551.01 *et seq.*), is amended as follows:

(a) Section 1152 (D.C. Official Code Sec. § 32-551.01) is amended as follows:

(1) Subsection (l) is amended to read as follows:

“(l)(1) As of December 31, 2021, and as of the last day of each quarter thereafter until full implementation of the paid-leave benefit expansions and employer contribution rate reduction set forth in section 104a(c) of the Act, the Chief Financial Officer shall compare its estimated costs of each type of paid-leave benefit with the actual cost of such leave during the most recently completed calendar quarter. If, on the basis of such comparison, the estimated cost of any type of paid-leave benefit was 3 or more times greater than the actual cost of such leave, then the Chief Financial Officer shall promptly deliver a letter to the Council disclosing the extent to which costs were overestimated and determining whether funds are sufficient to immediately implement all or any portion of the paid-leave benefit expansions and the employer contribution rate reduction in the order set forth in section 104a(c) of the Act.

“(2) By September 30 of each year following full implementation of the paid-leave benefit expansions and the employer contribution rate reduction set forth in section 104a(c) of the Act, the Chief Financial Officer shall review the status of the Fund and compare that status against the projections in that fiscal year’s budget and financial plan. If the Fund is running an annual surplus, the Chief Financial Officer shall issue a report to the Mayor and the Council that outlines options for bringing the Fund’s annual revenues and expenditures into balance, including a reduction in the employer contribution rate and changes to benefits under the paid-leave program established pursuant to the Act.”.

(2) A new subsection (n) is added to read as follows:

“(n) The cost of the benefits authorized under the Act shall be payable solely from the Fund. Nothing contained in the Act or this act shall be construed to create an obligation on the part of the District to pay benefits from any source other than the Fund.”.

(b) Section 1153(c)(1) (D.C. Official Code Sec. § 32-551.02(c)(1)) is amended by striking the phrase “at least \$500,000 shall be used to fund the Workplace Leave Navigators Program established pursuant to section 2093 of the Workplace Leave Navigators Program Establishment Amendment Act of 2020, passed on 2nd reading on July 28, 2020 (Enrolled version of Bill 23-760)” and inserting the phrase “at least \$250,000 shall be used to fund the Workplace Rights Grants Program established pursuant to the Workplace Rights Grant Program Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (Committee print of Bill 24-285)”.

Sec. 4064. The District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(1)(A)), is amended as follows:

(a) Section 2(1)(A) (D.C. Official Code § 32-501(1)(A)) is amended to read as follows:

“(A) For leave provided under sections 3 or 4, an individual who has:

“(i) Been employed by the same employer for at least 12 consecutive or non-consecutive months, inclusive of holiday, sick, or personal leave granted by the employer as part of its regular benefits whether such leave was paid or unpaid, in the 7 years immediately preceding the date on which the period of family or medical leave is to commence; and

“(ii) Worked at least 1,000 hours for the employer during the 12-month period referenced in sub-subparagraph (i) of this paragraph preceding the date on which the period of family or medical leave is to commence.”.

(b) Section 11(b) (D.C. Official Code § 32-510) is amended as follows:

(1) Subsection (b) is amended by striking the period and inserting the phrase “, except that this limitations period shall toll while a claim is pending administrative review under section 10(b).” in its place.

Sec. 4065. The Workplace Leave Navigators Program Establishment Amendment Act of 2020, effective Dec. 3, 2020 (D.C. Law 23-149; D.C. Official Code § 32-561.01 *et seq.*), is repealed.



SUBTITLE XX. PAYMENTS FOR DELAYED UNEMPLOYMENT CLAIMS

Sec. XXX. Short title.

This subtitle may be cited as the “Delayed Unemployment Compensation Payments Relief Amendment Act of 2021”.

Sec. XXX. Section 7 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-107), is amended by adding a new subsection (j) to read as follows:

“(j)(1) No later than December 31, 2021, the Director shall issue a \$1,500 payment to each of the 10,000 claimants with the greatest number of days between the date the claimant filed the claimant’s initial claim for benefits and the date the Director first issued payment on the claim.

“(2) To receive the payment authorized in paragraph (1) of this subsection:

“(A) A claimant’s initial claim must have been approved between June 1, 2020, and July 1, 2021;

“(B) There must be at least 60 days between the claimant’s initial claim filing and issuance of the first payment to the claimant; and

“(C) A claimant must be a District resident.

“(3) The Director shall not require claimants to provide additional documentation or an application to receive the payment authorized in paragraph (1) of this subsection.”.

SUBTITLE XX. IT COMMUNITY TRAINING AND ADVISORY BOARD

ESTABLISHMENT ACT OF 2021

Sec. 1XX1 Short Title

This subtitle may be cited as the “IT Community Training and Advisory Board Establishment Act of 2021”.

Sec. 1XX2 Definitions

For the purposes of this subtitle:

- (1) “Community training provider” means an entity in the District that has received an IT training grant awarded pursuant to section 1xx7.
- (2) “Dual-enrollment” means enrollment at both a WIC-approved community-based IT training program and UDC-CC or WDLL.
- (3) “IT” means information technology.
- (4) “IT Board” means the Information Technology Occupational Advisory Board.
- (5) “IT training” means occupational skills training that leads to an industry-recognized credential for IT jobs in any sector.
- (6) “Program” means the Information Technology Investment Program established pursuant to section 1xx3 of this subtitle.
- (7) “Program participant” means a District resident who is enrolled in Program training and receiving Program assistance authorized pursuant to section 1xx3.
- (8) “Program training” means any of the following, collectively or independently, as determined by context:

“(A) Credit-bearing courses at UDC-CC that may be applied toward a UDC-CC degree,

“(B) WDLL courses;

“(C) IT training through a community training provider.

(9) “Program training providers” means UDC-CC and WDLL, to the extent those entities are engaged in providing Program training, and community training providers.

(10) “Public health emergency” means the Coronavirus (COVID-19) public health emergency declared pursuant to Mayor’s Order 2020-045, on March 11, 2020, and all subsequent extensions.

(11) "Satisfactory academic progress" means maintaining an academic standing consistent with the requirements for program completion, as determined by the Program training provider.

(12) “UDC” means the University of the District of Columbia.

(13) “UDC-CC” means the UDC Community College.

(14) “UDC-CC degree” means the Associate in Applied Science in Computer Science Technology degree offered through the UDC-CC.

(15) “WDLL” means the UDC-CC Division of Workforce Development and Lifelong Learning.

(16) “WDLL courses” means Information Technology and Office Administration Career Pathway courses offered through the WDLL.

(17) “WIC” means the Workforce Investment Council.

(18) "WIOA" means the Workforce Innovation and Opportunity Act of 2014, approved July 22, 2014 (128 Stat. 1425; 29 U.S.C. § 3101 *et seq.*).

Sec. 1XX3. Establishment of the Information Technology Investment Program.

(a) The WIC, in collaboration with UDC, the University of the District of Columbia Foundation, Inc., and community training providers, shall establish the Information Technology Investment Program to provide financial assistance to District residents who seek to obtain IT occupational credentials through Program training and to support District residents in obtaining IT jobs. The WIC shall be responsible for providing funding for the Program consistent with the memoranda of understanding required pursuant to section 1XX6 and the IT training grants authorized pursuant to section 1XX7.

(b) The Program shall provide industry-informed, up-to-date IT training and certification at no cost to eligible District residents, who, under the Program, may receive the following financial assistance to pursue Program training:

(1) Payment of tuition, to the extent charged;

(2) Payment of academic costs, including the costs of books, supplies, and membership fees; and

(3) A monthly stipend to be used toward living expenses and transportation for participants pursuing WDLL courses or IT training through community training providers.

(c) Program training shall be offered at the UDC-CC campus and any WDLL satellite locations and at community training provider sites located in the District, as approved by the WIC.

(d) Program marketing and public education shall be provided by UDC-CC, WDLL, and community training providers to attract District residents to the Program and for the duration of the Program.

Sec. 1XX4. Conditions of Program eligibility.

(a) To be eligible for Program assistance to pursue a UDC-CC degree, an individual shall:

(1) Meet the relevant enrollment requirements for a UDC-CC degree;

(2) Be a resident in the District;

(3) Have a stated interest in working in IT occupations;

(4) Have not already completed an associate degree in IT or a bachelor's degree at an institution of higher education; and

(5)(A) Have experienced unemployment or significant loss of income due to the public health emergency; or

(B) Have multiple barriers to employment, as determined by the WIC.

(b) To be eligible for Program assistance to pursue WDLL courses, an individual shall:

(1) Meet the eligibility criteria established pursuant to subsection (a)(2), (3), (4), and (5) of this section; and

(2) Meet the enrollment requirements for WDLL courses.

(c) To be eligible for Program assistance to pursue IT training through a community training provider, an individual shall:

(1) Meet the eligibility criteria established pursuant to subsection (a)(2), (3), (4), and (5) of this section; and

(2) Meet the enrollment requirements of the community training provider.

(d) Program training providers shall select Program participants according to the terms of the applicable memorandum of understanding or grant agreement with the WIC.

Sec. 1XX5. Program participation.

(a) To maintain eligibility for Program assistance, an individual shall:

- (1) Maintain satisfactory academic progress;
- (2) Be a resident of the District throughout enrollment in Program training; and
- (3) Meet any other requirements determined by the WIC to be necessary or

appropriate for Program participation.

(b)(1) In exchange for Program assistance, a Program participant shall agree to endeavor to remain District residents for 6 months for each Program training course the participant completes.

(2) The WIC shall establish requirements and procedures to administer this subsection.

#### Sec. 1XX6. Memoranda of Understanding.

(a)(1) No later than October 1, 2021, and by October 1 annually thereafter, the WIC shall execute Memoranda of Understanding (“MOUs”) with UDC and the University of the District of Columbia Foundation, Inc. (“Foundation”) for the purpose of implementing the Program through UDC-CC, including WDLL, and authorizing the intradistrict transfer of funds in accordance with the terms of this subsection.

(2) The MOU with UDC shall, among other things, include funding from the WIC to support the following purposes in amounts to be determined by the parties:

(A) Tuition, required fees, equipment, supplies, tools, and memberships for Program participants who are full-time or part-time students enrolled at UDC-CC to obtain a UDC-CC degree;

(B) Required academic fees, equipment, supplies, tools, and membership fees for Program participants who are students enrolled in WDLL courses, and the salaries and fringe benefits of faculty and staff directly engaged in the provision of such courses;

(C) Reasonable costs of facilities and equipment upgrades necessary to provide Program training offered through UDC-CC, including WDLL;

(D) Marketing and recruitment activities to attract District residents to the Program; and

(E) Development of dual enrollment guidance and policies for the expansion of dual-enrollment programs.

(3) The MOU with the Foundation shall, among other things, include funding from the WIC to provide Program participants enrolled in WDLL courses monthly stipends to defray living expenses in amounts to be determined by the parties, and may include amounts for the following:

(A) Fees associated with occupational licensing exams;

(B) Reasonable transportation costs to and from classes; and

(C) Any other expenses deemed appropriate by the WIC.

Sec. 1XX7. Establishment of IT training grants.

(a) Pursuant to section 4(c) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603(c)), no later than October 1, 2021, and by October 1 annually thereafter, the WIC shall issue IT training grants (“grants”) to eligible providers of IT training in the District.

(b) Grant recipients shall use funds received pursuant to this section to support the salaries and fringe benefits of faculty and staff engaged in the provision of IT training and to provide Program participants the financial assistance outlined in section 1XX3(b).

(c) Subject to availability of funds, the WIC shall award grants totaling not less than \$1,875,000 per year with the option of one additional year based on performance results from previous years.

(d) To be eligible for a grant, an applicant shall:

(1) Be licensed by the Higher Education Licensure Commission as a postsecondary institution, degree or non-degree seeking.

(2) Demonstrate that its IT training participants consistently and successfully attain the following benchmarks:

(A) Completion of IT training;

(B) Attainment of an IT occupational credential;

(C) Obtainment of unsubsidized employment in an IT occupation; and

(D) Retention of employment in an IT occupation for 6 months or longer.

(d) The WIC may give preference to grant applicants utilizing integrated education and training, as defined by 34 C.F.R. § 463.35.

Sec. 1XX8. Program performance and reporting.

(a) At the termination of each semester, UDC shall furnish to the WIC a statement of:

(1) The disaggregated number of Program participants by course who, during that semester, participated in one or more Program training course;

(2) The total number of Program training course enrollments attributable to the Program participants identified pursuant to paragraph (1) of this subsection.

(3) The disaggregated number of Program participants included in the response to paragraph (1) of this subsection who successfully completed each Program training course, who



dropped out, or who otherwise did not complete a Program training course in which the Program participant had enrolled;

(4) The disaggregated number, by occupational credential, of Program participants who successfully secured an IT occupational credential; and

(5) The total number of Program participants who successfully secured employment in an IT occupation and the average starting wage.

(b) At the end of each fiscal year, the Foundation shall furnish to the WIC a written accounting, for the previous year, of monthly stipends dispersed, the number of Program participants who received monthly stipends, the average amount of stipend per Program participant, and the approved purposes for the monthly stipends.

(c) At the middle and end of each grant award cycle, a community training provider shall furnish to the WIC a report on the number of Program participants achieving the targets identified by the IT Advisory Report outlined in section 1X11(a)(4).

(d) The WIC shall:

(1) Use common performance measures outlined in section 116 of WIOA (128 Stat. 1471; 29 U.S.C. § 3142), to track the performance of Program training providers; and

(2) Report on the performance of the Program as required by section 102 of the Workforce Development System Transparency Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-95; D.C. Official Code § 32-1622).

(e) Beginning no later than September 30, 2022, and by September 30 annually thereafter, the WIC shall furnish to the Mayor and the Council of the District of Columbia copies of the IT Advisory Report issued pursuant to section 1X11 and a report, which shall include;

(1) Reporting on the attainment of the target performance outcomes established pursuant to section 1X11(a)(4);

(2) A narrative analysis on the effectiveness of the Program at increasing the number of District residents in IT occupations; and

(3) Recommendations on the expansion or extension of the Program beyond the terms of this subtitle, including any additional budgetary needs.

Sec. 1XX9. Program funding.

The WIC shall make best efforts to use federal WIOA Title I Adult and Dislocated Worker funds to supplement funds appropriated for the purposes of implementing this subtitle.

Sec. 1X10. Establishment of the Information Technology Occupational Advisory Board.

(a) The WIC shall establish an Information Technology Occupational Advisory Board, which shall work to advise UDC-CC, WDLL, and community training providers on their IT training courses to ensure a high quality of training, to maximize the employability of graduates of IT training course offerings, and to meet the IT staffing needs of employers in the District.

(b) After researching and analyzing existing IT Occupational Advisory Boards in the District and the metropolitan region, the WIC shall determine the structure and membership of its IT Board. The WIC may use a third-party to conduct the research and analysis and to make recommendations on the structure and membership of the IT Board.

(c) No later than March 1, 2022, the WIC's Executive Director shall provide to the WIC Board a recommendation on an IT Board structure, membership composition, membership selection process, and board duties.

(d) The WIC shall approve, deny, or amend the recommendation described in paragraph (c) of this section by vote.

(e) The first meeting of the WIC-approved IT Board shall occur no later than July 1, 2022.

Sec. 1X11. IT Advisory Report.

(a) No later than September 30, 2022, the WIC shall submit to the Mayor, Council, UDC-CC, WDLL, and community training providers, an IT Advisory Report, which shall contain the following:

(1) The number of District residents needed to meet hiring demands of District employers hiring for IT occupation jobs;

(2) The occupational credentials less than a bachelor's degree needed for District residents to be eligible for employment in IT occupations;

(3) The necessary hard and soft skills needed to succeed in IT occupations;

(4) Target performance outcomes for Program training providers to achieve pertaining to recruitment, enrollment, course or degree completion, credential attainment, employment, average starting wage, and retention of employment at 6 months and one year; and

(5) Recommendations for Program training providers on the following:

(A) New or additional IT courses that Program training providers should offer;

(B) Existing IT course offerings that Program training providers should expand;

(C) IT course content adjustments that could be made to align courses with skills needed on the job in IT occupations;

(D) Equipment and facilities upgrades necessary for relevant IT education and IT training to achieve the recommendations in subparagraphs (A), (B), and (C) of this paragraph; and

(F) Any other information deemed appropriate by the IT Board.

Sec. 1X12. Applicability.

This subtitle shall expire on September 30, 2024.

Subtitle. XX. NURSE EDUCATION ENHANCEMENT

Sec. 1XX1. Short Title.

This subtitle may be cited as the “DC Nurse Education Enhancement Program Amendment Act of 2021”.

Sec. 1XX2. Definitions.

For the purposes of this subtitle:

(1) “BON” means the Board of Nursing established pursuant section 204 to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04).

(2) "CNA" means a Certified Nursing Aide.

(3) “Community training provider” means an entity that has been approved by the BON to provide training to individuals to attain certification as a CNA, HHA, or MA-C.

(4) "Direct care worker" means an individual who is certified as a CNA, HHA, or MA-C.

(5) “Direct care worker training grant” means a grants issued pursuant to section 1xx7.

(6) “Direct care worker training grantee” means a community training provider that has received a direct care worker training grant.

(7) “Dual-enrollment” means enrollment in both a BON-approved training program and the University.

(8) "Healthcare Workforce Partnership" means the entity established pursuant to section 2075 of the Healthcare Workforce Partnership Act of 2020, effective December 3, 2020 (D.C. Law 23-149; D.C. Official Code § 32-1684).

(9) "HHA" means Home Health Aide.

(10) "LPN to AASN degree" means a Licensed Practical Nurse to Associate in Applied Science in Nursing degree.

(11) "MA-C" means Medication Aide Certified.

(12) "Nursing care occupation" means an occupation that requires a worker to be certified as a CNA, HHA, MA-C, LPN, or RN.

(13) "Program" means the DC Nurse Education Enhancement Program established pursuant to this subtitle.

(14) "Program participant" means a District resident who is enrolled in Program training and receiving Program assistance authorized pursuant to section 1xx3.

(15) "Program training" means any of the following, collectively or independently, as determined by context:

“(A) Credit-bearing courses at UDC that may be applied toward an RN to BSN degree;

“(B) Credit-bearing courses at UDC-CC that may be applied toward an LPN to AASN degree,

“(C) WDLL courses; or

“(D) Training to obtain a certification as a CNA, HHA, or MA-C, or a CNA to HHA bridge program, through a community training provider.

(16) "RN to BSN degree" means a Registered Nurse to Bachelor of Science in Nursing degree.

(17) "Satisfactory academic progress" means maintaining an academic standing consistent with the requirements for program completion, as determined by the Program training provider.

(18) "UDC" means the University of the District of Columbia.

(19) "UDC-CC" means the University of the District of Columbia Community College.

(20) "University" means, collectively, UDC, UDC-CC, and WDLL.

(21) "WDLL" means the UDC-CC Division of Workforce Development and Lifelong Learning.

(22) "WDLL courses" means courses offered through WDLL's Healthcare Direct Career Pathway Nursing Assistant program.

(23) "WIC" means Workforce Investment Council.

(24) "WIOA" means the Workforce Innovation and Opportunity Act of 2014, approved July 22, 2014 (128 Stat. 1425; 29 U.S.C § 3101 *et seq.*).

### Sec. 1XX3. Establishment of the Nurse Education Enhancement Program.

(a) The WIC shall establish, in collaboration with the University, the University of the District of Columbia Foundation, Inc., and direct care worker training grantees, the DC Nurse Education Enhancement Program for the purpose of training District residents to obtain an occupational credential and employment in nursing care occupations. The WIC shall be responsible for providing funding for the Program consistent with the memoranda of understanding executed pursuant to section 1XX6 and the direct care worker training grants authorized pursuant to section 1XX7.

(b) The Program shall provide industry-informed, BON-approved training that leads to certifications required for nursing care occupations at no cost to eligible District residents, who, under the Program, may receive the following financial assistance to pursue Program training:

(1) Payment of tuition, to the extent charged;

(2) Payment of academic costs, including books, supplies, and membership fees;

and

(3) A monthly stipend to be used toward living expenses and transportation for Program participants pursuing WDLL courses or certification as a CNA, HHA, MA-C, or a CNA to HHA bridge program, through a direct care worker training grantee.

(c) Program training shall be offered at the University's campuses and satellite locations and at community training provider sites located in the District.

(d) Program training shall be approved by the BON.

(e) Program marketing and public education shall be provided by the University and community training providers to attract residents to the Program and for the duration of the Program.

(f) The University shall review the recommendations and implement relevant sections of the Healthcare Occupations Report developed by the Healthcare Workforce Partnership pursuant to section 2175(e) of the Healthcare Workforce Partnership Act of 2020, effective December 3, 2020 (D.C. Law 23-149; D.C. Official Code §32-1684(e)), to maintain and enhance course offerings to meet the workforce needs of nursing care occupations in the District.

Sec. 1XX4. Conditions of Program eligibility.

(a) To be eligible for Program assistance while pursuing an RN to BSN degree through UDC, an individual shall:



- (1) Have met the enrollment requirements of UDC;
- (2) Be a resident in the District;
- (3) Have a stated interest in employment in a nursing care occupation;
- (4) Have not already completed a bachelor's degree at an institution of higher education;
- (5) Have previously obtained a credential as a CNA, HHA, or LPN; and
- (6) Have been employed in the District for a minimum of 2 years as a CNA, HHA, or LPN with a healthcare employer.

(b) To be eligible for Program assistance while pursuing an LPN to AASN degree through UDC-CC, an individual shall:

- (1) Meet the conditions outlined in subsection (a)(2), (3), and (4) of this section;
- (2) Meet the enrollment requirements of UDC-CC;
- (3) Have previously obtained a credential as a CNA, HHA, or MA-C; and
- (4) Have been employed in the District for a minimum of 2 years as a CNA, HHA, or MA-C with a healthcare employer.

(c) To be eligible for Program assistance while pursuing certification as a CNA through WDLL, an individual shall:

- (1) Meet the conditions outlined in subsection (a)(2), (3), and (4) of this section;
- and

- (2) Meet the enrollment requirements of WDLL;

(d) To be eligible for Program assistance while pursuing a certification as a CNA, HHA, MA-C, or while pursuing a CNA to HHA bridge program, through a direct care worker training grantee, an individual shall:

(1) Meet the conditions outlined in subsection (a)(2), (3), and (4) of this section;

and;

(2) Meet the enrollment requirements of the community training provider.

(e) The University and direct care worker training grantees shall select Program participants according to the terms of the applicable memorandum of understanding or grant agreement with the WIC.

Sec. 1XX5. Program participation.

(a) To maintain eligibility for Program assistance, an individual shall:

(1) Maintain satisfactory academic progress, as determined by the University or the direct care worker training grantee;

(2) Be a resident of the District throughout participation in Program training; and

(3) Meet any other requirements determined by the WIC to be necessary or appropriate.

(b)(1) In exchange for Program assistance, a Program participant shall agree to endeavor to remain District residents for 6 months for each Program training course the participant completes.

(2) The WIC shall establish requirements and procedures to implement this subsection.

Sec. 1XX6. Memoranda of Understanding.

(a)(1) No later than October 1, 2021, and by October 1 annually thereafter, the WIC shall execute Memoranda of Understanding ("MOUs") with the University and the University of the District of Columbia Foundation, Inc. ("Foundation") for the purpose of implementing the

Program at the University and authorizing the intradistrict transfer of funds in accordance with the terms of this subsection.

(2) The MOU with University shall, among other things, include funding from the WIC to support the following purposes in amounts to be determined by the parties:

(A) Tuition, required fees, equipment, supplies, tools, and memberships for Program participants who are full-time or part-time students at UDC and UDC-CC seeking to obtain an RN to BSN degree or an LPN to AASN degree;

(B) Required academic fees, equipment, supplies, tools, certification exam preparation fees, and memberships for Program participants who are students enrolled in WDLL courses, and the salaries and fringe benefits of faculty and staff directly engaged in the provision of such courses.

(C) Reasonable costs of facilities and equipment upgrades necessary for providing Program training through UDC-CC, including WDLL.

(D) Marketing and recruitment activities to attract District residents to the Program; and

(E) Development of dual enrollment guidance and policy for the expansion of dual-enrollment programs.

(3) The MOU with the Foundation shall, among other things, include funding from the WIC to provide Program participants enrolled in WDLL courses monthly stipends to defray living expenses in amounts to be determined by the parties, and may include amounts for the following:

(A) Fees associated with occupational licensing exams;

(B) Reasonable transportation costs to and from classes; and

(C) Any other expenses deemed appropriate by the WIC.

Sec. 1XX7. Establishment of direct care worker training grants.

(a) Pursuant to section 4(c) of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 1603(c)), no later than October 1, 2021, and by October 1 annually thereafter, the WIC shall issue direct care worker training grants (“grants”) to community training providers according to this section.

(b) Grant recipients shall use funds received pursuant to this section to support the salaries and fringe benefits of faculty and staff engaged in training Program participants to become direct care workers and to provide Program participants the financial assistance outlined in section 1XX3(b).

(c) Subject to availability of funds, the WIC shall award grants totaling not less than \$900,000 per year with the option of 2 additional years based on performance results from previous years.

(d) To be eligible for a grant, an applicant shall:

- (1) Be located in the District;
- (2) Be a community training provider; and
- (3) Demonstrate that its training participants consistently and successfully attain

the following benchmarks:

(A) Completion of direct care worker training;

(B) Direct care worker credential attainment;

(C) Obtainment of unsubsidized employment as a direct care worker in the

occupation of training; and

(D) Retention of employment as a direct care worker in the occupation of training for 6 months or longer.

(e) The WIC may give preference to grant applicants utilizing integrated education and training, as defined by 34 C.F.R. § 463.35.

Section 1XX8. Program performance and reporting.

(a) At the termination of each semester, the University shall furnish to the WIC a statement of:

(1) The disaggregated number of Program participants by course who, during that semester, participated in each Program course.

(2) The total number of Program training course enrollments attributable to the Program participants identified pursuant to paragraph (1) of this subsection;

(3) The disaggregated number of Program participants included in the response to paragraph (1) of this subsection who successfully completed each Program training course, who dropped out, or who otherwise did not complete the Program training course in which the program participant had enrolled;

(4) The disaggregated number, by occupational credential, of Program participants who successfully secured a nursing care occupation credential; and

(5) The total number of Program participants who successfully secured employment in a nursing care occupation and average starting wage.

(b) At the end of each fiscal year, the Foundation shall furnish to the WIC a written accounting, for the previous year, of the stipends dispersed, number of Program participants receiving stipends, average amount of stipend per Program participant, and the approved purposes for the monthly stipends .

(c) At the middle and end of the grant award cycle, each direct care worker training grantee shall furnish to the WIC a report on Program participant outcomes pertaining to recruitment, enrollment, completion, credential attainment, employment average starting wage, and retention of employment at 6 months and one year.

(d) The WIC shall:

(1) Use common performance measures outlined in section 116 of WIOA (128 Stat. 1471; 29 U.S.C. § 3142), to track the performance of the Program training providers; and

(2) Report on the performance of the Program as required by section 102 of the Workforce Development System Transparency Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-95; D.C. Official Code § 32-1622).

(3) No later than September 30, 2022 and by [September 30] annually thereafter, furnish a report to the Mayor and the Council of the District of Columbia, which shall include:

(A) The data received pursuant subsections (a), (b), and (c) of this section;

(B) A narrative analysis on the effectiveness of the Program at increasing the number of District residents in nursing care occupations; and

(C) Recommendations on the expansion or extension of the Program beyond the terms of this subtitle, including any additional budgetary needs.

Sec. 1XX9. Program funding.

The WIC shall make best efforts to use federal WIOA Title I Adult and Dislocated Worker funds to supplement funds appropriated for the purposes of implementing this subtitle.

Sec. 1X10. The Healthcare Workforce Partnership Act of 2020, effective December 3, 2020 (D.C. Law 23-149, D.C. Official Code § 32-1681 *et seq.*), is amended as follows:

(a) Section 2172(c) (D.C. Official Code § 32-1682(c)) is amended as follows:

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

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

“(2A) Submit to the Partnership for feedback the proposed statement of work for the direct care worker training grant outlined in section 1XX7 of the DC Nurse Education Enhancement Program Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (Committee print of Bill 24-285); and”.

(b) Section 2175(b)(3) (D.C. Official Code § 32-1684) is amended as follows:

(1) Subparagraph (D) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Subparagraph (E) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new subparagraph (F) is added to read as follows:

“(F) At least one representative from an employer of workers who are certified nursing aides, certified home health aides, or medication aide certified, including licensed home health agencies, assisted living residences, adult day health programs, nursing facilities, and long-term direct healthcare providers.”.

Sec. 1X11. The Nurses Training Corps Establishment Act of 1987, effective October 9, 1987 (D.C. Law 7-32, D.C. Official Code § 38-1501 *et seq.*), is repealed.

Sec. 1X12. Applicability.

Sections 1xx2 through \_\_\_\_\_ 1x10 shall expire on September 30, 2024.





SUBTITLE XX. School Year Internship Program Amendment Act of 2021

Sec. 1XX1. Short title.

This subtitle may be cited as the “School Year Internship Program Amendment Act of 2021”.

Sec. 1XX2. Section (a)(2A) of the Youth Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-242(a)(2A)), is amended as follows:

(a) The lead-in language is amended by striking the word “pilot” and inserting the word “program” in its place.

(b) Subparagraph (A) is amended to read as follows:

“(A) A program called the School Year Internship Program (“Program”) for a minimum of 350 District high school students, each year, to provide work-based learning opportunities during the school year.”.

(c) Subparagraph (C) is amended to read as follows:

“(C) DOES shall notify students of their placement with an internship host by January 5, 2022, and September 15 of each subsequent year.”.

(d) Subparagraph (D) is amended to read as follows:

“(D) Interns shall remain matched with their internship host between the first week of October and the last day of May; provided, that for Fiscal Year 2022, internships may begin as late as the second week in January 2022.”.

(e) Subparagraph (F)(ii) is amended by striking the phrase “December 1, 2020.” and inserting the phrase “December 1, 2021, and July 1 of each subsequent year.”.

## SUBTITLE XX. JOBS FIRST DC PILOT PROGRAM ESTABLISHMENT

Sec. 1XX1. Short title.

This subtitle may be cited as the "Jobs First DC Pilot Program Establishment Act of 2021".

Sec. 1XX2 Definitions.

For the purposes of this subtitle:

(1) "Digital literacy" means fluency in the use and security of interactive digital tools and searchable networks including the ability to use digital tools safely and effectively for learning, collaborating, and producing.

(2) "DOES" means the District Department of Employment Services.

(3) "Employment retention support" means activities delivered to participants after securing employment that are aimed at assisting participants in maintaining employment with the same employer.

(4) "Grant" means the Program funds authorized to be issued pursuant to section 1XX4.

(5) "Grantee" means an organization in receipt of a grant issued pursuant to section 1XX4.

(6) "Participant" means an individual selected by a grantee, pursuant to section 1XX4, to participate in the Program.

(7) "Program" means the Jobs First DC Pilot Program established pursuant to section 1XX3.

(8) "Supportive services" shall have the same meaning as provided in 20 CFR § 651.10

(9) WIOA means the federal Workforce Innovation and Opportunity Act of 2014, approved July 22, 2014 (128 Stat. 1425; 29 U.S.C. § 3101 *et seq.*)

Sec. 1XX3 Establishment of the Jobs First DC Pilot Program.

(a) There is established a Jobs First DC Pilot Program for the purpose of issuing grants to assist in the placement of at least 300 District residents in unsubsidized permanent employment and to fund 12 months of job retention support.

(b) The Program shall provide participants the following assistance:

(1) Assessment and evaluation of their job history, skills, and education;

(2) Information and referral to support services, as defined by 20 CFR § 651.10;

(3) Career services described in section 134(c)(2) of WIOA (128 Stat. 1520; 29 U.S.C. § 3174(c)(2));

(4) Resume development;

(5) Employment-readiness skills development;

(6) Interview preparation;

(7) Job search and application submission;

(8) Job referrals as described in 20 CFR § 651.10, to unsubsidized permanent employment opportunities;

(9) Job interview follow-up and feedback;

(10) Employment orientation paperwork completion;

(11) Professional networking coaching; and

(12) 12 months of employment retention support.

(c) The Program may provide participants the following assistance:

(1) Digital literacy skills development;

(2) Review of credit scores and creation of a plan to improve a participant's credit score; and

(3) Review of criminal history records and creation of a plan to ameliorate the effects of or correct a participant's criminal record.

Sec. 1XX4. Establishment of Jobs First DC grants.

(a) Beginning no later than November 1, 2021, the DOES shall issue a request for applications for Jobs First DC Pilot Program grants.

(b) Beginning no later than December 15, 2021, DOES shall award a minimum of 2 grants, each not less than \$250,000 per year for a minimum of 2 years, subject to the availability of funds, to provide job placement and employment retention support for District residents.

(c) To be eligible for a grant, an applicant shall:

(1) Be located in the District of Columbia;

(2) Be a nonprofit organization with a 501(c)(3) status, as determined by the Internal Revenue Service;

(3) Have demonstrated success providing the employment assistance described in section 1xx3(b) to individuals with the characteristics described in section 1XX5(a)(4), as evidenced by a minimum of a 65% employment placement rate; and

(4) Have demonstrated success providing employment support to individuals for up to 12 months, as evidenced by a minimum of a 70% employment retention rate.

(d) DOES may give preference to applicants that have partnerships with:

(1) Organizations that provide criminal and credit record review and recovery support; or

(2) Financial institutions to establish individual development accounts ("IDAs") for employed participants, in which the progressive employment retention bonuses outlined in

subsection (c) of this section and other savings can be deposited and matched to help participants build assets and achieve financial stability.

(d) Grantees shall:

(1) Select Program participants according to the criteria outlined in section 1XX5.

(2) Provide participants the services outlined in section 1XX3(b); and

(3) Provide progressive employment retention bonuses totaling up to \$500 for

each participant who meets the following milestones:

(A) At 180 days of employment, a participant shall receive \$250;

(B) At 365 days of employment, a participant shall receive \$250.

(4) Receive a training outcomes bonus totaling up to \$500 for each participant

who meets the following milestones:

(A) For each participant that remains employed for 180 days, a grantee shall receive \$250;

(B) For each participant that remains employed for 365 days, a grantee shall receive \$250.

(e) Grantees may establish and facilitate a participant alumni group for the purpose of providing participants access to education and training opportunities and to promote professional advancement.

Sec. 1XX5. Participant conditions of eligibility.

(a) To be eligible to participate in the Program, an individual shall:

(1) Be a resident in the District;

(2) Be unemployed at the time of application to the Program;

(3) Be able to engage in regular, full-time employment, as assessed by the grantee; and

(4) Have one or more of the following barriers to employment:

(A) Lack of consistent work history;

(B) History of a criminal record;

(C) History of substance abuse;

(D) History of mental illness; or

(E) Housing insecurity.

#### Sec. 1XX8. Reporting.

(a) Every 6 months, starting from receipt of a grant, a grantee shall furnish to DOES a report on the following outcomes from the previous 6 months:

(1) The total number of participants placed in employment;

(2) The average starting wage for participants;

(3) The average number of days from official enrollment in the program to employment start date;

(4) The total number of participants achieving each progressive employment milestone outlined in section 1XX4(d)(3) and the average participant wage at each milestone;

(5) The total sum of progressive employment retention bonuses issued to participants; and

(6) The total sum of training outcomes bonuses issued to grantees.

(b) Beginning no later than December 15, 2022, and by December 15 annually thereafter, DOES shall furnish a report to the Mayor and the Council containing the grantee performance outcomes reported pursuant to subsection (a) of this section.

## SUBTITLE X. HEROES PAY

### Sec. 1XX1. Short title.

This subtitle may be cited as the “Heroes Pay Act of 2021”.

### Sec. 1XX2. Definitions.

For the purposes of this subtitle:

(1) The following terms shall have the same meaning as provided in the Coronavirus State and Local Fiscal Recovery Funds, Department of the Treasury, Interim final rule, 86 Fed. Reg. 26820 (May 17, 2021), or any superseding rule:

(A) “COVID-19 public health emergency”;

(B) “Eligible employer”;

(C) “Eligible workers”;

(D) “Essential work”; and

(E) “Premium pay”.

(2) “Heroes pay” means premium pay.

(3) “Program” means the Heroes Pay Grant Program established pursuant to this subtitle.

### Sec. 1XX3 Heroes Pay Grant Program.

(a) There is established a Heroes Pay Grant Program for the purpose of providing heroes pay to eligible workers who performed essential work in the District during the COVID-19 public health emergency through grants to their employers, including restaurants, hotels, health care and long-term care facilities, and grocery and retail stores.

(b) The Mayor shall administer the Program consistent with the requirements of sections 602 and 603 of the Social Security Act, approved March 12, 2021 (134 Stat. \_\_\_\_; 42 U.S.C. §§

802 & 803), and implementing rules, regulations, and guidance issued by the U.S. Department of the Treasury.

1xx4. Issuance of grants.

(a) The Mayor shall solicit applications from eligible employers in the District who seek to provide heroes pay to eligible workers who earn less than 150% of the District's average annual wage for all occupations, as defined by the U.S. Department of Labor, Bureau of Labor Statistics' Division of Occupational Employment and Wage Statistics. The Mayor shall provide at least 30 calendar days during which employers may apply for the grant assistance authorized in this subtitle.

(b) Under the Program, eligible employers may receive the following amounts for distribution to eligible workers:

(1) \$500 for each eligible worker who performed at least 100 hours of essential work between March 1, 2020, and April 30, 2021, at a rate of \$5 per hour worked; and

(2) \$250 for each eligible worker who performed essential work for at least 50 hours after May 1, 2021, at a rate of \$5 per hour worked.

(c) To receive a grant authorized under this subtitle, an employer shall submit a grant application that:

(1) Is in the form prescribed by the Mayor;

(2) Contains a heroes pay plan outlining:

(A) The total number of eligible workers for whom the employer seeks heroes pay;

(B) The number of eligible workers, and amount of funds per worker, that the employer seeks for heroes pay authorized pursuant to subsection (b)(1) of this section;



(C) The number of eligible workers, and amount of funds per worker, that the employer seeks for heroes pay provided pursuant to subsection (b)(2) of this section; and

(D) For each eligible worker identified in the plan, documentation reflecting the essential work the worker performed, the dates of such work, and information requested by the Mayor related to the worker's wages and compensation;

(3) Bears the signature of the employer affirming that the heroes pay provided to an eligible worker will be in addition to any wages or remuneration the eligible worker otherwise received or will receive for the period for which the worker is to receive heroes pay; and

(4) Contains any additional information required by the Mayor.

(d) If funding sought by eligible employers exceeds funds available for the Program, the Mayor may, notwithstanding subsection (b) of this section, award partial grants to eligible employers of no less than 1/2 of the amount sought in the employer's application.

(e)(1) Eligible employers who receive grants pursuant to this subtitle shall distribute grant funds to eligible workers according to the employer's heroes pay plan within 2 weeks after the employer receives the grant funds;

(2) If an employer receives less than the requested amount under the employer's heroes pay plan, the employer shall distribute grant funds to eligible workers according to its heroes pay plan on a pro rata basis.

(3) An eligible employer that receives a grant pursuant to this subtitle shall supply documentation, as prescribed in the Mayor's request for grant applications, demonstrating compliance with the requirements of paragraphs (1) and (2) of this subsection to the Mayor.

(f)(1) The Mayor may issue one or more grants to a third-party grant-managing entity for the purpose of administering the Program and making subgrants on behalf of the Mayor in accordance with the requirements of this subtitle.

(2) No more than 8.5% of the total grant funds may be utilized for administration of the Program.

(3) A third-party grant-managing entity shall comply with the requirements of sections 602 and 603 of the Social Security Act, approved March 11, 2021 (134 Stat. \_\_\_\_; 42 U.S.C. §§ 802 & 803), and implementing rules, regulations, and guidance issued by the U.S. Department of the Treasury.

(g) Grants issued to eligible employers and third-party grant-managing entities pursuant to the Program shall be subject to the requirements of the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*).

Sec. 1xx5. Reporting.

Within 2 weeks after awarding heroes pay grants to eligible employers, the Mayor and any third-party grant-managing entity shall publish online the names of all employer-grantees, and, for each employer-grantee, the total award amount and the number of employees receiving heroes pay.

Sec. 1xx6. Rules.

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 subtitle.

SUBTITLE X. WORKPLACE RIGHTS GRANTS PROGRAM

Sec. 1XX1. This subtitle may be cited as “Workplace Rights Grant Program Amendment Act of 2021”.

Sec. XXX2. Subtitle J of the Fiscal Year 2020 Budget Support Act of 2019, effective September 11, 2019 (D.C. Law 23-16; D.C. Official Code § 32-171.01 *et seq.*), is amended to read as follows:

“SUBTITLE J. WORKPLACE RIGHTS GRANT PROGRAM

“Sec. 2091. This subtitle may be cited as the “Workplace Rights Grant Program Amendment Act of 2021”.

“Sec. 2092. Definitions.

For the purposes of this subtitle, the term:

“(1) “Activities” means conducting outreach to, providing worker education to, or providing legal services for eligible individuals related to employment laws.

“(2) “Community-based organization” means a nonprofit organization, including a legal services provider, headquartered in the District of Columbia whose purpose OAG determines is aligned with one or more purposes of the Program.

“(3) “Eligible individual” means an individual who works in the District.

“(4) “Employment laws” means workplace leave laws and:

“(A) The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*);

“(B) An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*);

“(C) Title II of An Act To provide for the payment and collection of wages in the District of Columbia, effective April 27, 2013 (D.C. Law 19-300; D.C. Official Code § 32-1331.01 *et seq.*);

“(D) The Workplace Fraud Amendment Act of 2012 (D.C. Law 19-300; D.C. Official Code §32-1301.01 *et seq.*);

“(E) The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 *et seq.*); and

“(F) Federal laws that relate to or provide similar rights as the laws identified in subparagraphs (A) through (G) of this paragraph, including the Fair Labor Standards Act of 1938, approved June 25, 1938 (52 Stat. 1060; 29 U.S.C. § 201 *et seq.*), and the Family and Medical Leave Act of 1993, approved February 5, 1993 (107 Stat. 6; 29 U.S.C. § 2611 *et seq.*).

“(5) “Grantee” means a community-based organization in receipt of a Program grant issued pursuant to section 2093.

“(6) “Legal services” means the provision of legal advice, assistance, or representation regarding an individual's rights or responsibilities related to a particular matter or more general matters.

“(7) “Legal services provider” means a nonprofit organization or clinical program headquartered in the District that provides legal services.

“(8) “Low- or moderate-income eligible individual” means an individual who works in the District and who earns an hourly wage or salary equivalent to less than 3 times the District minimum wage or who has a household income that falls at or below 400% of the

federal poverty guidelines issued by the United States Department of Health and Human Services.

“(9) “OAG” means the Office of the Attorney General for the District of Columbia.

“(10) “Program” means the Workplace Rights Grant Program established pursuant to section 2093.

“(11) “Workplace leave laws” means laws that provide for eligible individuals to take leave from their employment and protect the right to do so, and include the:

“(A) Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-531.01 *et seq.*);

“(B) Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*);

“(C) District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*); and

“(D) Protecting Pregnant Workers Fairness Act of 2014, effective March 3, 2015 (D.C. Law 20-168; D.C. Official Code § 32-1231.01 *et seq.*).

“Sec. 2093 Establishment of Program and issuance of grants.

“(a) There is established the Workplace Rights Grants Program for the purpose of authorizing OAG to provide grants to community-based organizations to conduct activities with eligible individuals related to employment laws and to inform the OAG’s work related to employment laws.

“(b) OAG shall administer the Program by:

“(1) Issuing Program grants to community-based organizations to provide outreach and worker education; outreach and legal services; or a combination of outreach, worker education, and legal services.

“(2) Awarding Program grants at least annually, which may include the continuation or renewal of multi-year grants, to at least 2 qualified community-based organizations;

“(3) Adopting policies, procedures, guidelines, and requirements for the grants, including performance measures and target outcomes; and

“(4) Issuing all grants pursuant to the requirements set forth in the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11 *et seq.*).

“(c) OAG may:

“(1) Require that at least 95% of the individuals served by a Program grant in a grant year be low- or moderate-income eligible individuals or reasonably believed to be low- or moderate-income eligible individuals; and

“(2) Pay grants on a performance basis or a reimbursable basis.

“(d) Program grants shall:

“(1) Have a duration of at least one year and up to 3 years, subject to the availability of appropriations and contingent on satisfactory performance by a grantee during the grant’s first year or, if applicable, the grant’s second year; and

“(2) Be for not less than \$100,000 per year per grant; provided, that OAG shall annually issue grants totaling at least \$150,000 to be utilized for activities related to workplace leave laws.

Sec. 2094. Grantee eligibility requirements.

“(a)(1) To be eligible for a grant authorized under this subtitle, a community-based organization shall:

“(A) Demonstrate in its application that it is well qualified to engage in the types of activities which will be funded, in whole or in part, by the grant;

“(B) Specify in its grant application the planned staff, schedule, format, and intended audience of the activities it plans to provide and provide a summary of the content of any worker education that will be carried out during the grant period; and

“(C) Include other information as required by OAG.

“(2)(A) In addition to the criteria specified in paragraph (1) of this subsection, to be eligible for a Program grant, a legal service provider shall demonstrate that it:

“(i) Has as its primary function the provision of free legal services to individuals; and

“(ii) Employs or will employ at least one attorney licensed to practice law in the District who possesses at least 3 years’ experience representing employees in matters involving employment laws.

“(B) A legal services provider that does not satisfy the criteria in subparagraph (A)(ii) of this paragraph may receive a Program grant if OAG determines, based on the legal service provider’s application, that it will provide high quality services.

“(3)(A) In addition to the criteria specified in paragraph (1) of this subsection, to be eligible for Program grant funds, a community-based organization that is not a legal services provider shall demonstrate that it possesses at least 3 years’ experience:

“(i) Conducting outreach to and establishing working relationships with significant numbers of eligible individuals; and

“(ii) Working on or assisting workers to secure rights under employment laws.

“(B) A community-based organization that does not satisfy the criteria in subparagraph (A)(i) of this paragraph may receive a Program grant if it applies in partnership with a community-based organization that meets the requirements of both subparagraph (A)(i) and (ii) of this paragraph.

“Sec. 2095. Grant uses.

“(a) Grantees may conduct activities:

“(1) Regarding a subset of employment laws.

“(2) With workers in a single occupational group; provided, that the grant application demonstrates that such occupational group experiences significant, disproportionately high, or persistent violations of employment laws or that the occupational group requires targeted assistance in order to access programs under employment laws.

“(b)(1) Grantees that provide worker education shall provide, to an eligible individual or group of eligible individuals, information on the rights and responsibilities of accessing benefits under, recognizing violations of and learning how to prevent or rectify violations of, or learning how to assist others to take steps to prevent or rectify violations of employment laws.

“(2) Grantees conducting worker education may provide the following:

“(A) Workshops;

“(B) Peer education;

“(C) Train-the-trainer services;



“(D) Other creative means of worker education that will serve a significant number of eligible individuals and have a significant impact in meeting the goals of worker education; and

“(E) In conjunction with one or more worker education activities listed in subparagraphs (A) or (B) of this subparagraph, distribute flyers, create websites and advertisements, or engage other forms of mass communication.

“Sec. 2096. Transparency and reporting.

“(a) OAG shall annually collect the following information from grantees:

“(1) The number of eligible individuals served by gender, race, ethnicity, primary language, and age;

“(2) The number of eligible individuals served by state of residence, and for District residents, by election ward;

“(3) The occupational groups of eligible individuals served and the number of individuals served in each occupational group;

“(4) A list of the activities provided, with a descriptive summary of each activity;

“(5) The number of eligible individuals served in relation to each employment law or set of employment laws;

“(6) Performance outcomes; and

“(7) An evaluation of implementation challenges and recommendations for future improvements.

“(b) OAG shall annually provide to the Council a report that includes:

“(1) A list of grantees and the amount of grant funding provided to each;

“(2) For each grantee, the information provided to OAG pursuant to subsection (a) of this section; and

“(3) An overall evaluation of the Program, including implementation challenges and recommendations for future improvements.

“(c) OAG may not require grantees to release to OAG any personally identifying information in connection with the preparation or provision of the reports described in this section.”.

Sec. 1XX3. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended as follows:

(a) Section 106b(c)(1)(B) (D.C. Official Code § 1-301.86b(c)(1)(B)) is amended by striking the phrase “provided in section 108c(a)” and inserting the phrase “provided in sections 108c(a) and 108d(a)” in its place.

(b) A new section 108d is added to read as follows:

“Sec. 108d. Authority to issue grants for workplace rights.

“(a) The Attorney General may issue grants for the purposes authorized pursuant to the Workplace Rights Grant Program Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (Committee print of Bill 24-285).

“(b) Personnel and non-personnel costs related to administering any grants issued pursuant to the authority provided in subsection (a) of this section may be paid from funds deposited into the Litigation Support Fund established in section 106b.”.

“(c) The Attorney General may issue rules to implement this section.”.

SUBTITLE X. UNEMPLOYMENT COMPENSATION IMPROVEMENTS

AMENDMENT ACT.

Sec. XX01. This subtitle may be cited as the “Unemployment Compensation Improvements Amendment Act of 2021”.

Sec. XX02. The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-101 *et seq.*), is amended as follows:

(a) Section 3(c)(2) (D.C. Official Code § 51-103(c)(2)) is amended by adding a new subparagraph (H) to read as follows:

“(H)(i) The following benefits paid to an individual who become unemployed or partially unemployed as a result of the circumstances giving rise to the public health emergency shall not be charged to an employer’s experience rating:

“(I) Benefits paid to the individual pursuant to section 101 of the Coronavirus Support Temporary Amendment Act of 2021, enacted May 3, 2021 (D.C. Act 24-62; 68 DCR 4824) (“section 101”), or any preceding or successive act of the Council of the District of Columbia authorizing payment of wage replacement benefits during the public health emergency on the same terms as those described in section 101;

“(II) Benefits paid to the individual after the termination of the public health emergency as a continuation of the benefits described in sub-subparagraph (I) of this subparagraph; and

“(III) Benefits paid under other local or federal law, including the federal Pandemic Emergency Unemployment Compensation program and extended benefits authorized under section 107(g).

“(ii) For the purposes of this subparagraph, the term “public health emergency” means the Coronavirus (COVID-19) public health emergency declared pursuant to Mayor’s Order 2020-045, on March 11, 2020, and all subsequent extensions.”.

(b) Section 10(a) (D.C. Official Code § 51-110(a)) is amended as follows:

(1) Designate the existing text as paragraph (1).

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

“(2) For the purposes of paragraph (1) of this subsection, the term “good cause” includes working in unsafe locations or under unsafe conditions where such unsafe working condition or location would cause a reasonable and prudent person in the labor market to leave the work, as determined by the Director based on the facts in each case.”

(c) Section 19(d) (D.C. Official Code § 51-119(d)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “or by the collection remedy set forth in D.C. Official Code § 47-1812.11(a)” and inserting the phrase “no more than 3 years from the date that such sum was paid to the claimant” in its place.

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

“(3)(A) Notwithstanding paragraph (1) of this subsection, during a covered period:

“(i) The Director, except as provided in subparagraphs (B) and (C) of this paragraph, shall not:

“(I) Initiate, file, or threaten to file a civil action for the collection of sums received as benefits to which a person was not entitled (“overpayment debt”);

or

“(II) Engage in communications related to such civil actions with persons alleged to owe an overpayment debt or their legal representatives, except as Directed by a court of competent jurisdiction or as necessary to comply with this subparagraph.

“(ii) All activity in pending civil actions that the Director has brought against persons for the collection of an overpayment debt shall be stayed, and the Director shall not engage in any activity in violation of such stay.

“(B) During a covered period, the Director shall continue to notify persons of their right to request overpayment waivers, to receive and process overpayment waiver requests, to provide information about an overpayment to a person or a person’s legal representative, and to engage in negotiations for the settlement of an existing overpayment debt.

“(C)(i) In addition to any requirement under federal law, within 30 days after the applicability date of the Unemployment Compensation Improvements Amendment Act of 2021, approved by the Committee on the Whole on July 20, 2021 (Committee print of Bill 24-285), and, thereafter, within 30 days after a declaration of a public emergency, the Director shall individually notify each person against whom the Director has initiated a civil action for the collection of an overpayment debt, in writing, that:

“(II) Any previously instituted civil action for the collection of an overpayment debt has been stayed until December 29, 2022, or during a public emergency, until 90 days after the public emergency terminates; and

“(III) The Director is barred from engaging in communications with the person related to a civil action for the collection of an overpayment debt according to the terms of subparagraph (A)(i)(II) of this paragraph.

“(ii) The Director shall retain proof that the notice required pursuant to sub-subparagraph (i) of this subparagraph was sent by a method reasonably calculated to reach the person alleged to owe the overpayment debt.

“(D) Beginning on the later of the public emergency, or the date the Mayor issues the declaration of the public emergency, the statute of limitations period prescribed in paragraph (1) of this section shall toll until 90 days after the termination of the public emergency.

“(E) After the conclusion of a covered period, the Director shall make reasonable efforts to resolve a dispute related to an overpayment debt for which a civil action was filed through settlement, including by making a reasonable offer to settle for less than the amount of the alleged overpayment.

“(F)(i) Any settlement agreement to which the Director, or his or her designee, is a party for repayment of an alleged overpayment debt entered into during a covered period shall not be valid or enforceable unless the Director can demonstrate compliance with this paragraph.

“(ii) A court of competent jurisdiction may void a settlement agreement described in sub-subparagraph (i) of this subparagraph if a person who is a party to the agreement demonstrates that the Director has not complied with the requirements of this paragraph.

“(G) For the purposes of this paragraph the term:

“(i) “Covered period” means:

“(I) Fiscal Year 2022 and 90 days thereafter; or

“(II) A public emergency and 90 days after the termination of the public emergency.

“(ii) “Public emergency” means a period of time for which the Mayor has declared a public emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304).”.

Sec. XX03. Requirement to produce educational videos for common questions about unemployment insurance.

(a) In Fiscal Year 2022, the Mayor shall produce 2 informational videos consistent with the requirements of this subtitle related to the administration and payment of benefits under the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-101 *et seq.*) (“UI program”).

(b) The first video shall explain the UI program’s rules regarding the requirement that claimants report weekly to the Department of Employment Services any earnings they receive during their benefit year, including earnings from employment and self-employment, (“benefit year earnings”), and shall specifically address:

(1) What income is considered benefit year earnings for the purpose of the weekly unemployment claim;

(2) When and how a claimant must report benefit year earnings;

(3) Examples of how to report benefit year earnings for hourly workers and for tipped workers; and

(4) Common errors claimants make when reporting benefit year earnings and how to avoid them.



(c) The second video shall explain the UI program’s requirement that the claimant has inquired about available work in accordance with sections 9 and 10 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 950; D.C. Official Code §§ 51-109, -110), and shall specifically address:

- (1) What the work search requirement is;
- (2) How a claimant can satisfy the work search requirement; and
- (3) Common errors claimants make when trying to comply with the work search requirement and how to avoid them.

(d) Each video shall:

- (1) Explain its content in simple, clear, and concise language that has a high likelihood of comprehension by a general audience;
- (2) Provide audio in English, Spanish, Amharic, Chinese, French, and other languages commonly spoken in the District;
- (3) Provide closed captions in English; and
- (4) Be viewable online from both personal computers and mobile devices.

(e) For as long as the content of each video is current and substantially accurate, as determined by the Mayor, the Mayor shall display each video or a link leading to a website where the video can be viewed:

- (1) On the UI program’s website;
- (2) On the Department of Employment Services’ website;
- (3) At American Job Centers;
- (4) Through social media posts; and
- (5) In emails to UI program claimants.

(f)(1) The Mayor shall procure the informational videos required pursuant to this section through grant or contract.

(2)(B) The person selected to produce the videos shall prepare a script for each video prior to the video's production and submit it to the Mayor for review. Within 30 days after receiving each script, the Mayor shall review and provide feedback on the script in order to:

(A) Correct any misstatements related to federal or District law or procedures claimants must follow; and

(B) Optimize the videos' accessibility to claimants.

SUBTITLE XX. DISTRICT GOVERNMENT EMPLOYEE RESIDENCY RESEARCH

Sec. XXX. Short title.

This subtitle may be cited as the “District Government Employee Residency Research Amendment Act of 2021”.

Sec. XXX. The Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008 (D.C. Law 17-108; D.C. Official Code § 1-515.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 1-515.01) is amended as follows:

(1) New paragraphs (1A), (1B), and (1C) are added to read as follows:

“(1A) “Common jurisdictions of residence” means a local jurisdiction where at least 500 District government employees reside; provided, that counties commonly known as the “eastern shore of Maryland” may be grouped together as one jurisdiction and all counties in West Virginia may be grouped together as one jurisdiction.

“(1B) “DCHR” means the District Department of Human Resources.

“(1C) “Demographics” means socioeconomic factors such as a District government employee’s race, household size, number of dependents, status as a parent of school-aged children, jurisdiction of birth, and household income.”.

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

“(2A) “Employment information” means the agency for which the employee works; the employee’s job title, salary, employment service and grade, occupation, and occupational group; the employee’s status as a full-time, part-time, term, or permanent employee; and the employee’s status as a highly-compensated employee.”.

(3) New paragraphs (4) and (5) are added to read as follows:

“(4) “Jurisdiction of residence” means the city, county, and state, as applicable, in which a District government employee maintains the employee’s primary or permanent residence.

“(5) “Residency-related policies” includes the preference points for District residents who apply to District government employment and the District residency mandates in sections 102 and 103, respectively, or in other District law.

(b) A new section 106a is added to read as follows:

“Sec. 106a. Study of District government employee residency.

“(a)(1) DCHR shall conduct a study on District government employee and applicant residency and residency-related policies (“study”), which it shall submit to the Council no later than October 1, 2022. The study shall utilize the results of each of the components described in subsection (b) of this section to provide a comprehensive analysis on the District government workforce as a whole and on sworn police officers, firefighters, and other groups regarding current patterns related to District government employees’ jurisdictions of residence; barriers to higher rates of District residency; reasons for District residency; effectiveness of current residency-related policies; and factors or policies that, if changed, could increase the rates of District residency for District government employees.

“(2) DCHR shall provide the Council Committee on Labor and Workforce Development a status update on the research, in writing, 3 months, 6 months, 9 months, 10 months, and 12 months following the effective date of the District Government Employee Residency Research Amendment Act of 2021, approved by the Committee of the Whole on July 20, 2021 (Committee print of Bill 24-285).

“(b) The study shall consist of the following components:

“(1) Results from a data analysis of the jurisdiction of residence of District government employees and applicants, consistent with the requirements of subsection (c) of this section;

“(2) Results of an anonymous survey or confidential focus groups, or both, of District government employees and former employees related to their opinions and experiences regarding their jurisdictions of residence, consistent with the requirements of subsection (d) of this section; and

“(3) Results of a review and analysis of District government agencies’ hiring practices and outcomes through data analysis and interviews or surveys, or both, of agency hiring directors, consistent with the requirements of subsection (e) of this section.

“(c)(1) The study’s data analysis component shall collect and analyze data, to the extent it is available, for the purpose of documenting, for the District government workforce:

“(A) Patterns, including correlations, between District government employees’ current jurisdictions of residence and employees’:

“(i) Employment information;

“(ii) Demographics;

“(iii) Median housing costs, including monthly rent and home sale price, in common jurisdictions of residence; and

“(iv) Applicable residency-related policies;

“(B) Patterns, including rates of application and of hire, of District government job applicants, by jurisdiction of residence and then by agency, salary level, employment service and grade, occupation, and occupational group. For District resident

applicants, the analysis shall also include a review of total workforce and agency-level patterns and rates at which applicants:

“(i) Were qualified for the applied-for jobs based on the 100-point scale;

“(ii) Sought and received District residency preference points;

“(iii) Received an interview;

“(iv) Received job offers; and

“(v) Accepted job offers; and

“(C) Patterns related to District government employees moving into the District, maintaining residency in the District, or moving out of the District, and factors or circumstances that include the following:

“(i) Employees’ jurisdictions of residence immediately before commencing work with the District government;

“(ii) Residency-related policies, including the end of the 7-year period of required residency for employees who received a hiring preference pursuant to section 102;

“(iii) The length of time employees resided in the District before commencing employment with the District government;

“(iv) Employment information; and

“(v) Demographics and changes in demographics.

“(2) Upon completion of the research and analysis conducted pursuant to paragraph (1) of this subsection, DCHR shall issue and submit to the Council a report documenting the findings of the data analysis for:

- “(A) The District’s workforce as a whole;
- “(B) Subordinate agency employees;
- “(C) Independent agency employees;
- “(D) Employees in jobs that require District residency;
- “(E) Employees in jobs that do not require District residency;
- “(F) Sworn police officers;
- “(G) Firefighters;
- “(H) Employees who received residency preference points;
- “(I) Employees with long tenures with the District government;
- “(J) Employees with short tenures with the District government; and
- “(K) Other groups and subgroups that produce findings of interest,

relevance, or import, including disaggregation by demographics, employment information, occupation, and other factors, where such disaggregation demonstrates observable patterns of interest or importance.

“(d)(1) The study’s anonymous survey or confidential focus groups component shall:

“(A) Be conducted after issuance of the report required pursuant to subsection (c)(2) of this section and be informed by its findings;

“(B) Include a sample size that is large and diverse enough for disaggregation into the groups of employees listed in subsection (c)(2) of this section.

“(C) Capture demographic information as well as information on actual housing costs of survey participants;

“(D) Capture data not available through the data analysis conducted pursuant to subsection (c)(1)(A) and (C) of this section;

“(E) Include questions, and allow open-ended responses, related to:

“(i) Why District employees choose to live in the District or not to live in the District;

“(ii) The decision-making considerations of employees as to their jurisdiction of residence, with a particular focus on housing costs, educational options, and other significant or common factors;

“(iii) For public safety jobs, including sworn police officers and firefighters, the unique factors of their jobs and how those factors’ impact their decisions related to jurisdiction of residence;

“(iv) How District resident employees are able to afford to live in the District; and

“(v) Other questions aimed at collecting the information required in paragraph (3)(A) of this subsection or of interest, relevance, or importance to the study;

“(2) DCHR may utilize up to \$10,000 to incentive participation in the survey;

“(3) Upon completion of the survey or focus groups and analysis conducted pursuant to paragraph (1) of this subsection, DCHR shall issue and submit to the Council a report with findings from the survey and confidential focus groups, which shall:

“(A) Include findings on:

“(i) The circumstances under which and reasons why District residents hired into District government positions move out of the District;

“(ii) The circumstances under which and reasons why new District government hires who are not District residents move into the District or do not move into the District;



“(iii) Factors that would influence a non-District resident to voluntarily live in the District or allow the individual to live in the District if the employee’s job required District residency, including salary thresholds above which District employees who are not District residents would be willing or able to become District residents; and

“(iv) Factors that would influence a District resident to remain a District resident in the long term;

“(B) Disaggregate results by demographics, salary level, the employee groups listed in subsection (c)(2) of this section, and other factors;

“(C) Provide average and median actual housing costs of survey or focus group participants, in sum and disaggregated by demographics, salary level, and other factors and;

“(D) Withhold or combine data to the extent failure to do so would otherwise disclose a participant’s identity.

“(e)(1) The study component related to a review and analysis of agencies’ hiring practices and outcomes shall utilize data gathered pursuant to subsection (c)(1)(B) of this section, related to District government employee applicants, and interviews with or surveys of agency hiring directors to inform the component, and shall include:

“(A) A review of District government agencies’ actual recruitment, hiring, retention, and promotion practices, whether and to what extent such practices focus on hiring District residents, success or lack of success of such practices at hiring District residents, how to improve practices to increase hiring of District residents, and the main challenges, as supported by data or reported by hiring directors, in hiring District residents and recruiting to positions that require District residency;

“(B) Identification of specific occupations or occupational groups and patterns or correlations related to occupations or occupational groups for which District residents represent less than 40% of new hires, each occupation’s or occupational group’s starting salary, and specific credentials necessary for each occupation or occupational group; and

“(C) For agencies that consistently have an annual rate of new hires that is less than 40% District residents, data analysis of, and agency hiring directors’ perspective on, the reasons for such rates, such as inadequate recruitment, bona fide hard-to-fill positions, lack of qualified District-resident applicants, lack of positions that require residency, or other legitimate reasons.

“(2) Upon completion of the research conducted pursuant to paragraph (1) of this subsection, DCHR shall issue and submit to the Council a report with findings of the review of hiring practices conducted pursuant to this subsection.

“(f)(1) To perform the study and complete the reports required pursuant to this section, DCHR may contract with or otherwise hire an outside entity with relevant expertise in conducting related research and using research methodologies required to produce the study, including to prepare the reports required in subsections (a), (c)(2), (d)(3), and (e)(2) of this section.

“(2) DCHR may use electronic communication tools, including e-mail, to facilitate a contractor or other external entity’s outreach to District government employees.

“(3) DCHR shall:

“(A) Provide a contractor or hired entity, should one be procured or hired, with the information and data necessary to facilitate completion of the study components outlined in subsection (b) of this section and shall assist the contractor or hired entity in

obtaining data from other agencies, including the Office of the Chief Financial Officer (“OCFO”) Office of Tax and Revenue.

“(B) Provide all raw data, survey questions, survey results, and all research components and other materials prepared by a contractor or hired entity for the research required by the study, but excluding individual-level data, to the Council upon request.

“(g) In complying with the provisions of this section, DCHR shall take steps to ensure the privacy and confidentiality of current and former District government employees. DCHR may not release to the public or to the Council any findings or data that contain personally identifying information.

“(h)(1) OCFO shall provide all information requested by DCHR or DCHR’s hired entity for the purposes of the research described in this subtitle unless sharing such information would violate District or federal laws. DCHR shall enter a data-sharing agreement with OCFO if necessary.

“(2) Independent agencies shall provide all information requested by DCHR for the purposes of the research described in this subtitle. DCHR shall enter a data-sharing agreement with the agencies if necessary.”.

(c) Section 108 (D.C. Official Code § 1-515.08) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “this act” and inserting the phrase “this title” in its place.

(2) Paragraph (2) is amended by striking the phrase “this act” and inserting the phrase “this title” in its place.

## SUBTITLE XX. DISABILITY INSURANCE OVERPAYMENT REMEDY

### Sec. 1XX1. Short title.

This subtitle may be cited as the “Disability Insurance Overpayment Remedy Act of 2021”.

### Sec. 1XX2. Definitions.

For the purposes of this subtitle, the term:

(1) “Affected employee” means each past and current District government employee who DCHR determines overpaid premiums on disability insurance at any time during the period from January 1, 2010 through December 31, 2020.

(2) “Disability insurance” means short-term or long-term disability insurance provided as a voluntary opt-in benefit for District government employees.

(3) “DCHR” means the Department of Human Resources.

(4) “Overpayment” means money paid by a District government employee for disability insurance premiums in excess of what the employee owed.

### Sec. 1XX3. Notification and repayment of premiums.

By September 30, 2022, DCHR shall:

(1) Identify all affected employees;

(2) Individually notify each affected employee about the fact of the overpayment, the date range of the employee’s overpayment, the total dollar amount overpaid by the employee, and the formula DCHR used to arrive at the affected employee’s overpayment amount;

(3) Provide affected employees a process to contest the overpayment calculation provided pursuant to paragraph (2) of this subsection;

(4) Reimburse each affected employee by the amount DCHR determines the affected employee overpaid, after considering any contested calculations pursuant to paragraph (3) of this section; and

(5) Submit to the Council a report containing the:

(A) Total number of affected employees;

(B) Date the District collected the first overpayment and the date the District ceased collecting overpayments;

(C) Total amount of all overpayments paid by all affected employees;

(D) Average amount by which affected employees overpaid their disability insurance premiums from 2010 through 2019; and

(E) Total amount of money the District reimbursed to all affected employees.

Sec. 1004. Sunset.

This subtitle shall expire 30 days after the Council's receipt of the report described in section 1XX3.

SUBTITLE XX. MEDICAL MARIJUANA PROGRAM PATIENT EMPLOYMENT  
PROTECTION REGULATION CLARIFICATION

Sec. 1XX.1. Short title.

This subtitle may be cited as the “Medical Marijuana Program Patient Employment Protection Regulation Clarification Amendment Act of 2021”.

Sec. 1XX2. 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.*), is amended as follows:

(a) Section 1503a(h) (D.C. Official Code § 1-615.03a(h)) is amended by striking the word “rules” and inserting the phrase “rules pertaining to Council employees” in its place.

(b) Section 2062(e) (D.C. Official Code § 1-620.62(e)) is amended by striking the word “rules” and inserting the phrase “rules pertaining to Council employees” in its place.

SUBTITLE XX. SUBJECT TO APPROPRIATIONS MODIFICATIONS

Sec. XXX.1. Short title.

This subtitle may be cited as the “Subject to Appropriations Modifications Amendment Act of 2021”.

Sec. XXX2. Section 4 of the Medical Marijuana Program Patient Employment Protection Amendment Act of 2020, effective April 27, 2021 (D.C. Law 23-276; 68 DCR 4794), is repealed.

Sec. XXX3. Section 301 of the Commission on Poverty Establishment Amendment Act of 2020, effective March 16, 2021 (D.C. Law 23-184; 68 DCR 1220), is repealed.

Sec. XXX4. Section 302 of the Ban on Non-Compete Agreements Amendment Act of 2020, effective March 16, 2021 (D.C. Law 23-209; 68 DCR 782), is amended to read as follows:

“Section 302. Applicability.

“This act shall apply as of April 1, 2022.”.