

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
1350 Pennsylvania Avenue, NW
Washington, DC 20004

MEMORANDUM

TO: Nyasha Smith, Secretary to the Council
FROM: Phil Mendelson, Chairman *J.M.*
DATE: August 9, 2021
RE: Notice of intent to move an amendment in the nature of a substitute to the FY22 Budget Support Act at the August 10, 2021 Additional Legislative Meeting

This memorandum is to provide notice of my intent to move an Amendment in the Nature of a Substitute (ANS) for Bill 24-285, the “Fiscal Year 2022 Budget Support Act of 2021” (FY22 BSA) at the August 10, 2021 Additional Legislative Meeting. The ANS is attached. It makes substantive revisions, as well as technical and clarifying changes throughout the document, developed with the Council’s Office of the Budget Director and Office of the General Counsel, the Office of the Chief Financial Officer, and the Executive. The substantive changes are described briefly below.

TITLE I. GOVERNMENT DIRECTION AND SUPPORT

Subtitle B. COVID-19 Public Health Emergency Procurement Analysis Amendment Act of 2021: The ANS amends the date by which the report from the Office of Contracting and Procurement is due to no later than October 22, 2021.

Subtitle D. Attorney General Support and Restitution Fund Expansion and Clarification Amendment Act of 2021: The ANS exempts from the term “recovery” those funds obtained through proceedings related to the Subrogation Fund or the Employees’ Compensation Fund.

Subtitle K. Early Childhood Educator Equitable Compensation Task Force Act of 2021: The ANS clarifies that the 12 District residents appointed to the Task Force are to be appointed by the Chairman of the Council, includes operators of home-based child development facilities and educators of child development facilities on the list of groups or entities that are to be represented on the Task Force, eliminates the minimum number of times the Task Force must meet and the requirement that the Task Force’s report assess overall readiness of child development providers to implement a competitive employee compensation scale, and enumerates implementation considerations that the Task Force’s report must address.

Subtitle M. Building Pathways Grant Act of 2021: This subtitle is struck because it was included as part of the Fiscal Year 2021 Revised Local Budget Adjustment Act of 2021.

Subtitle M. Chief Financial Officer Authority to Budget New Agencies Act of 2021: This new subtitle authorizes the Chief Financial Officer to create new agencies (for budget and financial

system purposes) as needed to implement 1) the Child Wealth Building Act, and 2) the Department Buildings Establishment Act. The latter will redesignate the Department of Consumer and Regulatory Affairs (DCRA) as the Department of Licensing and Consumer Protection and funds will be reallocated as necessary to establish the Department of Buildings.

Subtitle P. K.C. Lewis School Lease Authorization Act of 2021: This new subtitle authorizes the Mayor to lease the K.C. Lewis Elementary School (also known as the former Washington Metropolitan High School) to Howard University, with terms and conditions set by the Mayor, but providing that the lease will be no more than four years and that Howard must make improvements at its own expense.

TITLE II. ECONOMIC DEVELOPMENT AND REGULATION

Subtitle A. Equity in the Arts and Humanities Amendment Act of 2021: The ANS adds language striking definitions of two phrases no longer used in the underlying organic law and corrects (to begin next year) the timing of the terms and composition of the Commission.

Subtitle D. Real Property Tax Appeals Commission Membership Amendment Act of 2021: The ANS adds language that permits the Commission Chair to assign appointed hearing examiners to hear other real property assessment cases and clarifies that the Attorney General may appeal RPTAC vacant property decisions.

Subtitle E. Local Rent Supplement Program Enhancement Amendment Act of 2021: The ANS requires the DC Housing Authority (DCHA) and the Department of Human Services (DHS) to issue emergency and final rules for tenant-based voucher assistance; allocates certain vouchers directly to DCHA; requires long-term subsidy contracts and a memorandum of agreement between DHCD and DCHA for project-based vouchers; requires DCHA to waive rules that would exclude people with criminal records or individuals who are undocumented from receiving vouchers; ensures that families with minor children experiencing homelessness receive preference for tenant-based vouchers in FY2022; and limits client exits from rapid re-housing in FY 2022 to ensure clients are able to sustain housing stability before being exited.

Subtitle H. Section 108 Debt Reserve Account Establishment Act of 2021: The ANS clarifies the purpose and use of the Reserve Account.

Subtitle J. Reentry Housing and Services Program Act of 2021: The ANS corrects the type of assistance and authorizes administrative costs in Fiscal Year 2022.

Subtitle N. Deputy Mayor for Planning and Economic Development Grants and Initiatives Amendment Act of 2021: At the request of the Mayor, the ANS restores two provisions from the Mayor's proposed Budget Support Act: the Bridge Fund and a small and medium business recovery and growth program; adds the term "acquisition" to the language for the LGBTQ+ Center; and extends certain deadlines. The ANS also authorizes DMPED to spend up to 1% of the small business rent relief fund for administrative costs related to all the grant programs included in this subtitle; adds an equity impact enterprise commercial property acquisition section

previously recommended by the Committee on Business and Economic Development; and makes other technical and clarifying changes.

Subtitle P. District of Columbia Housing Authority Board of Commissioners Reform Amendment Act of 2021: The ANS changes one of the two new Commissioners from a Council appointment to a Mayoral appointment. It also increases the threshold value of contracts subject to Commission review and approval from \$250,000 to \$500,000.

Subtitle S. COVID-19 Hotel Recovery Grant Program Act of 2021: The ANS changes eligibility criteria for grant assistance to allow hotels to document decreases in occupancy, revenue, or revenue-per-available room; expands eligibility to hotels that were closed in 2019 or hotels that began operating between January 1, 2020 and December 31, 2021; limits the use of grant awards to employee wages, benefits, and related costs; and includes a claw-back provision if the Mayor determines a recipient has violated any of the requirements of the subtitle.

Subtitle U. DC Low Income Housing Tax Credit Amendment Act of 2021: The ANS restores this subtitle to the version as introduced with some modifications. It does not provide for Mayoral discretion over which projects receive credits, and it adds language setting the credit floor at \$0.70 per \$1.00 or 80% of the per dollar sale.

TITLE III. PUBLIC SAFETY AND JUSTICE

Subtitle D. Services in Support of Violence Prevention, Interruption, Response Amendment Act of 2021: The ANS renames and restructures this subtitle, adding language requested by the Executive, authorizing the Mayor to waive certain fees; pay certain private, local, state or federal fees; issue grants; and provide social, educational, and other services and financial payments to individuals and families who have been victims of gun violence.

Subtitle G. Keeping Youth Out of the Justice System Amendment Act of 2021: This subtitle was struck because it amends Title 22 of the D.C. Official Code, which triggers a 60-day congressional review period.

Subtitle G. Access to Justice Initiative Amendment Act of 2021: This new subtitle authorizes the use of funding for partner nonprofit organizations; and expands eligibility criteria for the Civil Legal Counsel Project Program from 200% of the federal poverty level to 250% of the federal poverty level to provide flexibility to serve more tenants at risk for eviction.

Subtitle H. Office of the Chief Medical Examiner and Child Fatality Review Committee Amendment Act of 2021: At the request of the Mayor, the ANS requires any agency implicated by a recommendation of a Fatality Review Committee, rather than just those agencies represented on the Committee, to provide a response to the specific recommendation.

Subtitle I. Reducing Law Enforcement Presence in Schools Amendment Act of 2021: The ANS moves the prohibition on law enforcement action against students from Title 5 of the D.C. Official Code to Title 16, where the current procedures for taking youth into custody are codified, and makes corresponding language changes to reflect the phrasing used in Title 16.

TITLE IV: PUBLIC EDUCATION

Subtitle A. Funding for Public Schools and Public Charter Schools Increase Amendment Act of 2021: The ANS increases the formula base from \$11,720 to \$11,730 per student to reflect increases made by the Council; makes clarifying changes to the per pupil facility allowance for the Public Charter Schools provision; and strikes unneeded definitions.

Subtitle C. Parks and Recreation Grant-Making Authority Amendment Act of 2021: The ANS corrects the names of two parks and adds a grant related to the C&O Canal that was funded at second reading of the FY 2022 Local Budget Act.

Subtitle G. Universal Paid Leave: The ANS includes the permanent version of the Short-term Disability Insurance Benefit Protection Emergency Amendment Act of 2021; allows the Office of Human Rights and the Office of Administrative Hearings employees whose positions are paid through the Universal Paid Leave Administration Fund funds to work on non-paid leave issues, provided those employees prioritize any paid leave issues that do materialize; and makes other technical and conforming edits.

Subtitle M. Jobs First DC Pilot Program Establishment Act of 2021: The ANS adds housing and mental health barriers to the list of items for which the Program will provide assistance.

Subtitle O. Unemployment Compensation Improvements Amendment Act of 2021: The ANS eliminates the staying of civil actions related to overpayments of unemployment insurance during Fiscal Year 2022 and public health emergencies, and conforms employer experience rating charging with Bill 24-364, the Coronavirus Unemployment Compensation Provisions Sunset Emergency Amendment Act of 2021.

Subtitle P. Learning Loss Grant Program Act of 2021: The ANS requires OSSE to spend at least 50% of the Program funds on multi-year grants to either the District's public school Local Education Agencies or community-based organization to support evidence-based approaches to learning acceleration or high impact tutoring; clarifies that funds distributed to District government agencies or that are used to provide technical assistance must be done so in furtherance of accelerating learning or addressing learning loss; and adds to OSSE's reporting requirements.

Subtitle Q. OSSE Data Planning for the Future Amendment Act of 2021: The ANS modifies the specifications of the course-coding system for which OSSE is to submit a plan to the Council, and changes the plan's deadline from March 31, 2022 to March 14, 2022 in order for the Council to receive the plan before the submission of the Mayor's proposed Fiscal Year 2023 budget.

Subtitle T. Wage and Hour. This subtitle was struck due to an unbudgeted cost.

Subtitle T. Delayed Unemployment Compensation Payments Relief Amendment Act of 2021: This new subtitle requires the Director of the Department of Employment Services to issue a \$500 payment to each of the 10,000 UI and PUA claimants who were District residents at the

time they were deemed first eligible for a first payment and who waited the greatest number of days between initial claims, application for extension benefits, or determinations and issuance of first payments or monetary redeterminations.

Subtitle V. District of Columbia Public Schools INSIGHT Survey Data Act of 2021: The ANS adds a date certain for release of information and an applicability provision.

Subtitle W. Healthy Schools Amendment Act of 2021: This new subtitle reflects funding provided at the committee level. It also amends the proof of compliance process for charter schools to submit information to the Department of General Services related to filtering and testing drinking water sources at school buildings, as required by the Childhood Lead Exposure Prevention Amendment Act of 2017 that was funded in the FY 2022 Local Budget Act.

Subtitle X. Duke Ellington School of the Arts New Funding and Organization Model Act of 2021: This new subtitle requires DCPS to enter into discussions with the Duke Ellington School of the Arts Project regarding a new funding and organization model for the Duke Ellington School of the Arts and requires DCPS to present the new model to the Council no later than December 31, 2021.

TITLE V. HEALTH AND HUMAN SERVICES

Subtitle A. Medicaid Hospital Outpatient Payment Amendment Act of 2021: The ANS restores the percentage (100%) of the aggregate Medicaid allowable costs that was mistakenly omitted at first reading.

Subtitle E. Maternal Health Resources and Access Amendment Act of 2021: The ANS converts this subtitle from standalone language to primarily amendatory language, establishes the practice of doulas as a profession regulated by the Board of Medicine, and defines eligible transportation costs.

Subtitle K. Early Childhood Educator Pay Equity Fund Establishment Act of 2021: The ANS includes the funding sources provided by the FY 2022 Local Budget Act, provides for an annual Consumer Price Index increase beginning in Fiscal Year 2026, and expands the use of the Fund for the payment of up to 10% of any year's annual deposit for administrative costs, including personnel costs and costs related to providing technical assistance to early childhood development centers.

Subtitle L. DC HealthCare Alliance Conforming Amendments and Non-Lapsing Fund Amendment Act of 2021: The ANS restores section 7c (D.C. Official Code § 7-1408), which allows an applicant or enrollee who is hospitalized, disabled, or elderly to be exempted, upon request, from any required face-to-face interview; limits the redirection of underspending into the DC HealthCare Alliance Reform Fund to Fiscal Years 2022 through 2024; and strikes the provision prohibiting reprogrammings without Council approval by resolution.

Subtitle M. Department of Health Care Finance Grant-Making Amendment Act of 2021: The ANS includes this subtitle previously recommended by the Committee on Health, which

authorizes the Department of Health Care Finance to issue certain enumerated grants in FY 2022, subject to available funds.

TITLE VI. OPERATIONS AND INFRASTRUCTURE

Subtitle B. Utility Relocation Reimbursement Amendment Act of 2021: The ANS strikes this subtitle.

Subtitle B. Department of Consumer and Regulatory Affairs Transition Amendment Act of 2021: This new subtitle changes the dates by which elements of DCRA shall be transferred to the new Department of Buildings from October 1, 2021 to October 1, 2022.

Subtitle G. Zero Waste Funding and Clarification Amendment Act of 2021: The ANS adds a new subsection amending the requirements for certification under the District's e-cycling to directly cite to the strongest certification program by name.

Subtitle L. Electric Mobility Device Amendment Act of 2021: The ANS adds a conforming amendment to the minimum weight of personal motor devices to remove the overlap between those devices and electronic mobility devices.

Subtitle R. Grants Act of 2021: The ANS adds a grant to support regional planning efforts for a commuter ferry service; the grant was funded at second reading of the FY 2022 Local Budget Act.

Subtitle S. Residential Parking Study Act of 2021: The ANS adds a new subtitle to direct the District Department of Transportation to conduct a study of innovative parking practices, including studying reducing the size of residential parking permit (RPP) zones to Advisory Neighborhood Commission boundaries and the possibility of combining RPP zones with pay-by-phone parking zones; this was funded at second reading of the FY 2022 Local Budget Act.

TITLE VII. FINANCE AND REVENUE

Subtitle C. Taxable Income Exclusions Amendment Act of 2021: The ANS expands the subtitle to incorporate several BSA grants and programs where the intention is not to tax the recipient on the grant or program funds received.

Subtitle E. Tax Abatements for Affordable Housing in High-Need Areas Amendment Act of 2021: The ANS expands the subtitle to include a new tax abatement for office to affordable housing conversion in the Downtown BID and Golden Triangle BID areas, modeled on the existing abatement. Beginning in FY 2025, the abatement will have a maximum amount of \$125,000, which increases to \$2.5 million in FY 2026 and \$4 million thereafter. This expansion was funded in the FY 2022 Local Budget Act at second reading.

Subtitle F. Events DC Grants: The ANS changes the matching amount that must be raised by the nonprofit organization fundraising for the National Cherry Blossom Festival and extends the fundraising deadline for the matching grant; and strikes the section for a youth and science

museum grant, which was moved to the FY 2021 Revised Local Budget Adjustment Emergency Act.

Subtitle G. Excluded Worker Payment Amendment Act of 2021: The ANS strikes the language that exempts grants from taxation; that provision is instead included in the newly expanded subtitle C of this title.

Subtitle H. Council Period 24 Rule 736 and Other Repeals Amendment Act of 2021: The ANS corrects which portions are repealed in Law 22-175, the Traffic and Parking Ticket Penalty Amendment Act, and Law 22-212, the Save Good Food Amendment Act; and strikes the repeal of Law 22-61, the Public School Health Services Amendment Act.

Subtitle I. Subject to Appropriations Repeals and Modifications Amendment Act of 2021: The ANS adds sections repealing the subject-to-funding applicability provisions of Law 22-21, the Childhood Lead Exposure Prevention Amendment Act; Law 23-191, the Electric Vehicle Readiness Amendment Act; and Law 23-246, the Voluntary Agreement Moratorium Amendment Act; and strikes Bill 24-143, the Certified Midwife Credential Amendment Act from the section, as this applicability provision can be addressed when the bill moves in the fall.

Subtitle K. Earned Income Tax Credit as Basic Income Amendment Act of 2021: The ANS makes changes to this subtitle to align the amount of the local earned income tax credits to the funds available for this purpose in the financial plan. With these changes, the District will have the most generous local credit in the nation, equal to 70% of the federal credit. The ANS also increases the amount of the local credit to 85% of the federal credit for tax year 2025 and 100% of the federal credit for tax year 2026.

TITLE VIII. SPECIAL PURPOSE REVENUE, DEDICATED REVENUE, AND CAPITAL

Subtitle A. Designated Fund Transfer: The ANS strikes the Fiscal Year 2021 sweeps that were enacted on an emergency basis in the FY 2021 Revised Local Budget Adjustment Emergency Act of 2021 and updates the table to reflect the sweeps made in the FY22 budget and financial plan.

Subtitle B. Fiscal Year 2022 Capital Project Reallocation Approval Act of 2021: The ANS strikes this subtitle because it was enacted on an emergency basis in the FY 2021 Revised Local Budget Emergency Adjustment Act of 2021.

A copy of the proposed ANS is attached. Please contact Jennifer Budoff, Council Budget Director, at 724-5689 if you have any questions.

cc: All Councilmembers
Council Officers