

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Mary M. Cheh introduced the following bill, which was referred to the Committee on \_\_\_\_\_.

To establish a District of Columbia Open Government Office; to amend the District of Columbia Administrative Procedure Act to create a presumption of disclosure, to streamline the process by which a Freedom of Information Act request may be made and responded to, to require posting of letters of denial on the agency’s websites, to amend the statutory exemptions under the Freedom of Information Act, and to provide stronger enforcement mechanisms including penalties for violations of the law; to require agencies to develop biennial transparency plans; to amend the District of Columbia Administrative Procedure Act to improve the formal rulemaking process; to amend the District of Columbia Campaign Finance Reform and Conflict of Interest Act to require additional disclosures regarding financial interests and potential conflicts of interest, and to improve the internet accessibility of financial disclosure reports; to amend An Act to regulate certain political campaign finance practices in the District of Columbia, and for other purposes, to increase the frequency of lobbyist activity report filings from semiannual reporting to quarterly reporting, to require a searchable lobbyist activity database, and to require a lobbyist, upon request, to disclose his or her client; and to establish a spending transparency website.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the “Open Government Act of 2010”.

**TITLE I. OPEN GOVERNMENT OFFICE.**

Sec. 101. Short title.

This title may be cited as the “Open Government Office Establishment Act of 2010”.

1           Sec. 102. Definitions.

2           For the purposes of this title, the term:

3                   (a) “Freedom of Information Act” means Title II of the District of  
4 Columbia Administrative Procedure Act, effective Mar. 25, 1977 (D.C. Law 1-96; D.C.  
5 Code § 2-531 *et seq.*).

6                   (b) “Office” means “District of Columbia Open Government Office”.

7           Sec. 103. Establishment of the District of Columbia Open Government Office.

8           Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved  
9 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Council  
10 establishes the District of Columbia Open Government Office, an independent agency to  
11 monitor the District’s compliance with the Freedom of Information Act, to assist the  
12 public and promote effective use of the District of Columbia Freedom of Information  
13 Act, and to resolve disputes between agencies and requesters regarding access to  
14 government records.

15           Sec. 104. Duties of the District of Columbia Open Government Office.

16           The Office shall:

17                   (a) Establish uniform procedures for public bodies’ handling of Freedom  
18 of Information Act requests; *provided*, that the procedures include:

19                           (1) An intake procedure by which each request a public body  
20 receives is:

21   (A) Assigned an individualized tracking number;

22   (B) Assigned to a designated Freedom of Information  
23 Officer within the public body.

1 (2) A screening procedure by which the public body evaluates  
2 whether the requested information is already publicly available.

3 (3) A review procedure under which the designated Freedom of  
4 Information Officer within the agency is to review information that has not previously  
5 been made public, and evaluation criteria determining whether, in whole or in part,

6 (A) The record falls within one of the specific exemptions  
7 enumerated in Section 104 of the Freedom of Information Act (D.C. Official Code § 2-  
8 534);

9 (B) Despite the fact that the record may fall within one of  
10 the enumerated exemptions, it should be disclosed; and

11 (C) Whether the record contains segregable, non-exempt  
12 information which must be disclosed.

13 (b) Issue advisory opinions to agencies and requesters.

14 (c) Conduct audits of agencies on the implementation of the Freedom of  
15 Information Act and issue reports detailing the results of such audits.

16 (d) Make recommendations for legislative or executive action.

17 (e) Provide annual training courses to agencies, officials, and employees  
18 related to the Freedom of Information Act.

19 (f) Provide training and other assistance to public requesters and to resolve  
20 disputes between requesters and agencies as a non-exclusive alternative to litigation.

21 (g) Conduct a biennial review of fees charged for requests.

22 (h) Report, before the 1<sup>st</sup> of February, on its activities, including  
23 recommendations for changes in the law, to the Mayor and the Council.

1           Sec. 105. Powers of the District of Columbia Open Government Office.

2           (a)(1) The Office shall, pursuant to its rules, have the power to:

3                           (A) Require by subpoena the attendance and testimony of  
4 witnesses and the production of documents relating to the execution of the Office's  
5 duties; and

6                           (B) Order that testimony in any proceeding or investigation be  
7 taken by deposition before any person who is designated by the Office, and has the power  
8 to administer oaths and, in these instances, to compel the attendance and testimony of  
9 witnesses and the production of documents by subpoena.

10           (2) The Office may petition the Superior Court of the District of Columbia  
11 to enforce the subpoena or order, in the case of a refusal to obey a subpoena or order of  
12 the Office issued pursuant to this subsection. Any person failing to obey the Court's order  
13 may be held in contempt of court.

14           (b) The Office shall have a right of access to all public records, including original  
15 electronic records and server copies, back-up tapes, and other records, subject to rules  
16 and procedures promulgated by the Office in consultation with the Mayor, the Attorney  
17 General, and the Chief Technology Officer.

18           (c) The Office shall issue rules to implement the Freedom of Information Act.

19           (d) The Office may, pursuant to its rules, investigate any alleged violation of the  
20 Freedom of Information Act and refer any violation to any of the following entities for  
21 enforcement: (1) the Mayor; (2) the Attorney General; (3) the Inspector General; (4) the  
22 District of Columbia Auditor; (5) the United States Attorney for the District of Columbia;  
23 or (6) any other law-enforcement agency.

1 (e)(1) To request any agency to submit in writing any reports and to answer any  
2 questions as the Office may prescribe that relate to the administration and enforcement of  
3 the Freedom of Information Act; and

4 (2) To bring a civil action in the Superior Court of the District of  
5 Columbia for declaratory or injunctive relief with respect to the failure of any agency to  
6 comply with the requirements of the Freedom of Information Act.

7 Sec. 106. Director.

8 (a) The Office shall be headed by a Director appointed by the Mayor with the  
9 advice and consent of the Council to serve a 5-year term. The Director shall employ staff  
10 as needed, in accordance with annual appropriations.

11 (b) The Director may be reappointed, and, if not reappointed, the Director shall  
12 serve until his successor has been confirmed.

13 (c) The Director shall not be removed before expiration of the 5-year term except  
14 for cause.

15 Sec. 107. Appropriations.

16 There are authorized to be appropriated from the general revenues of the District  
17 funds necessary to carry out the purposes of this act.

18 **TITLE II. FREEDOM OF INFORMATION ACT AMENDMENTS.**

19 Sec. 201. Short title.

20 This title may be cited as the “District of Columbia Freedom of Information  
21 Amendment Act of 2010”.

1           Sec. 202. Title II of the District of Columbia Administrative Procedure Act,  
2 effective Mar. 25, 1977 (D.C. Law 1-96; D.C. Code § 2-531 *et seq.*) is amended as  
3 follows:

4           (a) Section 202 (D.C. Code § 2-532) is amended to read as follows:

5           “Sec. 2. Right to inspect public records.

6           “(a)(1) Any person has a right to inspect, and at his or her discretion, to copy any  
7 public record of a public body, in accordance with reasonable rules concerning the time  
8 and place of access, except as expressly provided by Section 204 of this Act; *provided*,  
9 that this exception shall only apply if:

10                           “(A) The public body reasonably foresees that disclosure would  
11 harm an interest protected by one of the statutory exemptions; or

12                           “(B) If disclosure is prohibited by law.

13           “(2) A public body shall make available for inspection and copying any  
14 record produced or collected pursuant to a contract with a private contractor to perform a  
15 public serves and function, and the public body with programmatic responsibility for the  
16 contractor shall be responsible for making such records available to the same extent as if  
17 the record were maintained by the public body.

18           “(b) A person may request information from any agency or seek access to a public  
19 body’s records by verbal or written request made in person, by mail, by e-mail, by  
20 facsimile, or any other electronic means that the agency is capable of receiving. The  
21 agency shall endeavor to utilize social media and web portals to the greatest extent  
22 possible. A request should identify or describe the records sought with sufficient  
23 specificity to enable the public body to ascertain which records are being requested.

1           “(c)(1) A public body shall respond to any request within 10 days (except  
2 Saturdays, Sundays, and legal public holidays) of the receipt of the request.

3           “(2) In unusual circumstances, the time limit prescribed in subsection  
4 (c)(1) of this section may be extended by written notice to the requester setting forth the  
5 reasons for extension and expected date for determination. Such extension shall not  
6 exceed 10 days (except Saturdays, Sundays, and legal public holidays). The public body  
7 shall provide the Office with notice of each extension. For purposes of this subsection,  
8 and only to the extent necessary for processing of the particular request, “unusual  
9 circumstances” are limited to:

10           “(A) The need to search for, collect, and appropriately examine a  
11 voluminous amount of separate and distinct records sought in a single request; or

12           “(B) The need for consultation, which shall be conducted with all  
13 practicable speed, with another public body having a substantial interest in the  
14 determination of the request or among 2 or more components of a public body having  
15 substantial subject-matter interest therein.

16           “(d) The public body shall make requested documents available in electronic  
17 format unless the requester specifically requests another format. If the requested format is  
18 a form not normally used by the public body, it may at its discretion charge the actual  
19 cost of reproduction.

20           “(e) Any failure on the part of a public body to comply with a request under  
21 subsection (a) of this section within the time provisions of subsections (c) and (d) of this  
22 section shall be deemed a denial of the request, and the person making such request shall  
23 be deemed to have exhausted his administrative remedies with respect to such request,

1 unless such person chooses to petition the Mayor pursuant to § 2-537 to review the  
2 deemed denial of the request.

3 “(f)(1) The public body may, by rule, establish and collect fees not to exceed the  
4 actual cost of searching for, reviewing, and making copies of records. Documents may be  
5 furnished without charge or at a reduced charge where the public body determines that  
6 waiver or reduction of the fee is in the public interest because it is likely to contribute  
7 significantly to the public’s understanding of the operations or activities of the  
8 government and is not primarily in the commercial interest of the requester.

9 “(2) The fee schedules adopted by the public body shall provide that:

10 “(A) Fees shall be limited to reasonable standard charges for  
11 document search, duplication, and review when records are requested for commercial  
12 use;

13 “(B) Fees shall be limited to reasonable standard charges for  
14 document duplication when records are not sought for commercial use and the request is  
15 made by an educational or non-commercial scientific institution for scholarly or scientific  
16 research, or by a representative of the news media;

17 “(C) For any request for records not described in paragraphs (1) or  
18 (2) of this subsection, fees shall be limited to reasonable standard charges for document  
19 search and duplication; and

20 “(D) Only the direct costs of search, duplication, or review may be  
21 recovered.

22 “(3) Review costs shall include only the direct costs incurred during the  
23 initial examination of a document to determine whether the documents must be disclosed

1 or withheld in part as exempt under this section. Review costs may not include costs  
2 incurred to determine issues of law or policy related to the request.

3 “(4) The public body may not require advance payment of any fee unless  
4 the requester has previously failed to pay fees in a timely fashion, or the public body has  
5 determined that the fee will exceed \$ 250.

6 “(5) Any direct costs incurred by a public body in conducting a search  
7 shall be reimbursed; *provided*, that no fee may be collected by the public body if it fails  
8 to timely respond to a request.

9 (h) For purposes of this section, the term:

10 “(1) “Office” means the Open Government Office.

11 “(2) “Reasonable efforts” means that a public body shall not be required to  
12 expend more than 8 hours of personnel time to reprogram or reformat records.

13 “(3) “Request” means a single demand for any number of documents  
14 made at one time to an individual public body.

15 “(4) “Search” means to review manually or by automated means, public  
16 records for the purpose of locating those records which are responsive to a request.

17 Sec. 203. Section 203(b) (D.C. Code § 2-533(b)) is amended to read follows:

18 “(b) A public body shall maintain a file of all letters of denial of requests for  
19 public records. This file shall be made available to any person on request for purposes of  
20 inspection or copying. The public body shall also post the file, including all information  
21 required by subsection (a) of this section, on its website.”.

22 Sec. 204. Section 204(a)(3)(B) (D.C. Official Code § 2-534(a)(3)(B)) is amended  
23 to read as follows:

1           “(B) Deprive a person of a right to a fair trial or an impartial adjudication in a  
2 criminal or administrative proceeding; provided that this subsection shall not apply to  
3 civil litigation involving the District of Columbia.”

4           Sec. 205. Section 207 (D.C. Code § 2-537) is amended as follows:

5           (a) A new subsection (a-2) is added to read as follows:

6           “(a-2)(1) Any person denied the right to inspect a public record may request that  
7 the Office review the public body’s response for compliance with this Act. In its  
8 discretion, if the Office finds that the public body’s response does not comply with the  
9 Act, the Office may issue an order enjoining the public body from withholding the record  
10 and to compel the production of the requested record.

11           “(2) If the public body refuses to comply with the Office’s order, the  
12 Office may petition the Superior Court for the District of Columbia for a contempt order,  
13 or for injunctive or declaratory relief.

14           “(3) This subsection shall not be construed to limit in any way the ability  
15 of a person to seek relief in the Superior Court pursuant to subsections (a) or (a-1) of this  
16 section.”.

17           (b) Subsection (b) is amended to read as follows:

18           “(b)(1) In any suit filed under subsection (a) or (a-1) of this section, the Superior  
19 Court for the District of Columbia may enjoin the public body from withholding records  
20 and order the production of any records improperly withheld from the person seeking  
21 disclosure. The burden is on the public body to sustain its action. The court shall  
22 determine the matter de novo, and may examine the contents of such records in camera to

1 determine whether such records or any part thereof shall be withheld under any of the  
2 exemptions set forth in § 2-534.

3           “(2) Within 30 days after service of a complaint under this subsection, and  
4 notwithstanding the government’s responsibility to provide any other litigation  
5 documents or pleadings, if the plaintiff is alleging that the government conducted an  
6 inadequate search, the government shall file with the Court and serve on the plaintiff an  
7 affidavit describing in detail what records were searched, by whom, and through what  
8 process. The affidavit must set forth the search terms and the type of search performed  
9 and shall identify the actual files searched. The public body cannot limit its search to only  
10 one or more places if there are additional sources that are likely to reveal the information  
11 requested. Moreover, a public body must follow through on obvious leads to discover  
12 requested documents.

13           “(3) Except for good cause shown, if the public body fails timely to submit  
14 an affidavit that meets the standard described in this section, the Court shall order the  
15 public body to conduct a new search for the documents sought or to produce such an  
16 affidavit within 15 days, and plaintiff shall be considered to have substantially prevailed  
17 under subsection (c) of this section.

18           “(4) Notwithstanding anything else in this Act, a reviewing court may not  
19 find a public body’s search for documents adequate unless the agency clearly  
20 demonstrates to the court that its search was reasonably calculated to uncover all relevant  
21 documents.”.

22           (c) Subsection (c) is amended to read as follows:

1           “(c) If a person seeking the right to inspect or to receive a copy of a public record  
2 substantially prevails in such suit, he or she shall be awarded reasonable attorney fees and  
3 other costs of litigation. For purposes of this section, a person has substantially prevailed  
4 if the person has obtained relief through either—

5                   “(1) A judicial order, or an enforceable written agreement or consent  
6 decree; or

7                   “(2) A voluntary or unilateral change in position by the agency, if the  
8 complainant’s claim is not insubstantial.”.

9           (d) Subsection (d) is added to read as follows:

10           “(d) Any person who willfully violates this Act shall be guilty of a misdemeanor  
11 and upon conviction shall be punished by a maximum of 6 months in jail and a fine not to  
12 exceed \$10,000. A prosecution under this section may only be commenced by the  
13 issuance of a citation, which shall be personally served upon the defendant. The  
14 defendant shall not be arrested prior to the time of trial, except that a defendant who fails  
15 to appear for arraignment or trial may be arrested pursuant to a bench warrant and  
16 required to post a bond to secure his or her future appearance.”.

17           (e) A new subsection (e) is added to read as follows:

18           “(e) If a person is found to have recklessly violated any provisions of this  
19 subchapter, that person may be subject to appropriate personnel action or a fine of up to  
20 \$1,000. The Office shall promulgate regulations detailing a schedule of penalties  
21 consistent with this subsection for such violations.”.

22           (f) A new subsection (f) is added to read as follows:



1 (d) For the purposes of this section, the term:

2 (1) “High value information includes, but is not limited to, agency  
3 outcome data, agency caseload data, data reported to the federal government by the  
4 agency, agency data reported as part of the performance measurement process, and any  
5 data that is tracked by the agency that is not required to remain confidential under  
6 existing law.”

7 (2) “Open data format” means a format that is platform-independent,  
8 machine-readable, and made available to the public without restrictions that would  
9 impede the re-use of information. Any information made available should be capable of  
10 being retrieved, downloaded, indexed, and searched by commonly used web-search  
11 applications.

12 Sec. 303. Agency data disclosure.

13 For all databases procured in an amount greater than \$100,000, the District shall  
14 ensure the inclusion of a public-facing component or module that allows the public to  
15 access public records contained within the database. This must be made available no later  
16 than six months from the creation of the database.

17 **TITLE IV. ADMINISTRATIVE PROCEDURE ACT.**

18 Sec. 401. Short title.

19 This title may be cited as the “District of Columbia Administrative Procedure  
20 Amendment Act of 2010”.

21 Sec. 402. Section 6 of District of Columbia Administrative Procedure Act,  
22 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505) is amended to  
23 read as follows:

1 (a) The Mayor and each independent agency shall, no later than 30 days before  
2 the adoption, amendment, or repeal of any rule, publish in the District of Columbia  
3 Register notice of the proposed action. The notice shall, at a minimum, include the  
4 following:

5 (1) A short explanation of the purpose of the proposed action;

6 (2) A citation or reference to the specific legal authority authorizing the  
7 proposed action;

8 (3) The text of any rule proposed to be adopted, amended, or repealed;

9 (4) How a copy of the full text of the regulatory analysis of any rule  
10 proposed to be adopted, amended, or repealed may be obtained;

11 (5) Where, when, and how a person may comment on the proposed action  
12 and request a hearing; and

13 (6) A citation to and summary of each scientific or statistical study,  
14 report, or analysis that served as a basis for the proposed rulemaking, together with an  
15 indication of how the full text may be obtained.

16 (b)(1) The Mayor and each independent agency shall publish in the District of  
17 Columbia Register and on the agency's website any guidance document. A guidance  
18 document does not require notice and comment as required in subsections (a), (d), (e), (f),  
19 and (g).

20 (2) An agency that proposes to rely on a guidance document to the  
21 detriment of a person in any administrative proceeding must afford the person a fair  
22 opportunity to contest the legality or soundness of positions taken in the document. The  
23 agency may not use a guidance document to foreclose consideration of issues raised in

1 the document.

2 (3) A guidance document may contain binding instructions to agency staff  
3 members if at an appropriate stage in the administrative process, the agency's procedures  
4 provide affected persons an adequate opportunity to contest positions taken in the  
5 document.

6 (4) If an agency proposes to act in an adjudication at variance with a  
7 position expressed in a guidance document, it shall provide a reasonable explanation for  
8 the variance. If an affected person in an adjudication may have reasonably relied on the  
9 agency's position, the explanation must include a reasonable justification for the agency's  
10 conclusion that the need for the variance outweighs the affected person's reliance  
11 interests.

12 (5) An agency shall maintain an index of all of its currently effective  
13 guidance documents, publish the index on its website, make all guidance documents  
14 available to the public and file the index with the District of Columbia Register annually.  
15 The agency may not rely on a guidance document or cite it as precedent against any party  
16 to a proceeding, unless the guidance document is published on the agency website.

17 (6) A guidance document may be considered by a presiding officer or final  
18 decision maker in an agency adjudication but it does not bind the presiding officer and  
19 the final decision maker in the exercise of discretion.

20 (7) A person may petition an agency under subsection (i) to adopt a rule in  
21 place of a guidance document.

22 (8) A person may petition an agency to revise or repeal a guidance  
23 document. Not later than 60 days after submission of the petition, the agency shall:

- 1 (A) revise or repeal the guidance document;
- 2 (B) initiate a proceeding for the purpose of considering a revision
- 3 or repeal; or
- 4 (C) deny the petition in a record and state its reasons for the
- 5 denial, meeting fairly each point raised by the petitioner.

6 (9) For the purposes of this subsection, the term “guidance document”

7 shall mean any “a document prepared or used by an agency that is not legally binding but

8 which states the agency’s current approach to or interpretation of law, or which describes

9 how and when the agency will exercise discretionary functions.”

10 (c)(1) The Mayor and each independent agency shall maintain an indexed

11 rulemaking docket that contains a list of all pending rulemaking proceedings. The Mayor

12 and each independent agency shall maintain a record for each proposed adoption,

13 amendment, or repeal of a rule that contains:

14 (A) A copy of all publications in the District of Columbia Register

15 relating to the rule or the proceeding upon which the rule is based;

16 (B) A copy or an index of written factual material, studies, and

17 reports relied on or consulted by agency personnel in formulating the proposed or final

18 rule;

19 (C) Any official transcript, audiovisual copy, or summary of oral

20 presentations made in the proceeding upon which the rule is based;

21 (D) A copy of the rule and notice described in paragraph (a); and

22 (E) All petitions for action on the rule.

1                   (2) The Mayor and each independent agency shall publish the rulemaking  
2 docket and the record for each rule on the internet and shall make them available for  
3 public inspection, or, upon request, provide copies to individuals at a reasonable cost.

4                   (d) To the greatest extent possible, the Mayor shall notify the public of the  
5 proposed changes in the rules, and encourage participation in the rulemaking process. An  
6 agency proposing the adoption, amendment, or repeal of a rule shall specify a public  
7 comment period of at least 30 days after publication of the notice of proposed rulemaking  
8 during which a person may submit information and comment on the rule proposed for  
9 adoption, amendment, or repeal. Agencies shall publish comments received on their web  
10 sites.

11                  (e) Not later than one year after the notice of proposed rulemaking, the agency  
12 shall adopt, amend, or repeal the rule pursuant to the rulemaking proceeding or terminate  
13 the proceeding by publication of a notice of termination in the Register; provided, that the  
14 agency may extend the period of time for adopting, amending or repealing the rule for an  
15 additional period of 6 months by filing a statement of good cause for the extension in the  
16 rulemaking record, but must provide for additional comment period of at least 30 days  
17 before adopting, amending or repealing the rule.

18                  (f) An agency may not take action on a rule proposed to be adopted, amended, or  
19 repealed that differs from the action proposed in the notice of proposed rulemaking on  
20 which the rule is based unless the action is the logical outgrowth of the action proposed in  
21 the notice.

22                  (g) At the time it adopts, amends, or repeals a rule, an agency shall issue a concise  
23 explanatory statement containing:

1 (1) The agency's reasons for the action, including the agency's reasons for  
2 not accepting substantial arguments made in testimony and comments; and

3 (2) Subject to subsection (f) of this section, the reasons for any change  
4 between the text of the proposed adopted or amended rule contained in the published  
5 notice of the proposed adoption or amendment of the rule and the text of the rule as  
6 finally adopted.

7 (h)(1) An agency may gather information relevant to the subject matter of  
8 rulemaking and may solicit comments and recommendations from the public by  
9 publishing a notice of intent to propose rulemaking in the Register and indicating where,  
10 when, and how persons may comment.

11 (2) An agency may engage in negotiated rulemaking by appointing a  
12 committee to comment or make recommendations on the subject matter of a rulemaking  
13 under active consideration within the agency. The committee, in consultation with one or  
14 more agency representatives, may attempt to reach a consensus on the terms or substance  
15 of a proposed rule. The agency shall publish a list of all committees with their  
16 membership in the Register. Notice of a meeting of a committee appointed under this  
17 subsection must be published in the Register at least 10 days before the meeting. A  
18 meeting of a committee appointed under this section is open to the public.

19 (3) This subsection shall not be construed to prohibit an agency from  
20 obtaining information and opinions from members of the public on the subject of the  
21 rulemaking by any other method or procedure used in rulemaking.

22 (i) Any person may petition the Mayor or an independent agency to adopt, amend,  
23 or repeal any rule. The Mayor and each independent agency shall prescribe by rule the

1 form for such petitions, and the procedure for their submission, consideration, and  
2 disposition. Not later than 60 days after submission of a petition, the agency shall:

3 (1) Deny the petition in a record and state its reasons for the denial,  
4 meeting fairly each point raised by the petitioner; or

5 (2) Initiate rulemaking proceedings in accordance with this Act.

6 Nothing in this subchapter shall make it mandatory that the Mayor or any agency to  
7 promulgate, amend, or repeal any rule pursuant to a petition therefor submitted in  
8 accordance with this section.

9 (k) Notwithstanding any other provision of this section, the Mayor or an  
10 independent agency may, without prior notice or hearing or upon any abbreviated notice  
11 and hearing that it finds practicable, adopt, amend, or repeal any rule if, the adoption,  
12 amendment, or repeal of a rule is necessary for the immediate preservation of the public  
13 peace, health, safety, or welfare, including the imminent loss of federal funding for a  
14 specific program, and if the Mayor or such independent agency states its reasons for that  
15 finding. . No such adoption, amendment, or repeal of a rule made under this subsection  
16 shall remain in effect longer than 120 days after the date of its adoption. The adoption,  
17 amendment, or repeal under this subsection does not otherwise preclude the adoption or  
18 amendment of an identical rule, or the repeal of the rule. The Mayor or independent  
19 agency shall publish in the District of Columbia Register the rule adopted, amended, or  
20 repealed under this subsection as soon as practicable given the nature of the emergency,  
21 shall publish the rule on its website, and shall notify persons who have requested notice  
22 of rules related to that subject matter. Nothing in this section prohibits the adoption of a  
23 new rule under this subsection if at the end of the effective period of the original rule

1 made under this subsection, the Mayor or independent agency finds that need for the  
2 immediate preservation of the public peace, welfare, health, safety, or welfare still exists.

3 **TITLE V. FINANCIAL DISCLOSURE AMENDMENT ACT.**

4 Sec. 501. Short title.

5 This title may be cited as the “Financial Disclosure Amendment Act of 2010”.

6 Sec. 502. Section 602(a) of the District of Columbia Campaign Finance Reform  
7 and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 446; D.C. Official Code  
8 § 1-1106.02(a)) is amended as follows:

9 (a) Paragraph (1) is amended as follows:

10 (1) By striking the phrase “the name of each business entity” and inserting  
11 the phrase “name, address, and nature of each business entity” in its place.

12 (2) By striking the phrase “such person (or his or her spouse, if property is  
13 jointly titled)” and inserting the phrase “such person (or his or her spouse, or domestic  
14 partner)” in its place.

15 (b) Paragraph (5) is amended by striking the phrase “by such person” and  
16 inserting the phrase “by such person, or by his or her spouse or domestic partner,” in its  
17 place.

18 (c) By adding a new paragraph (5A) to read as follows:

19 “(5A) A certification that such individual has filed his federal and state income  
20 tax returns, or has filed for an extension of time for filing such tax returns.”.

21 Sec. 503. Section 602(f) of the District of Columbia Campaign Finance Reform  
22 and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 446; D.C. Official Code  
23 § 1-1106.02(a)) is amended to read as follows:

1           “(f) All public reports filed under this section shall be maintained by the Board as  
2 public records which, under such reasonable regulations as it shall prescribe, shall be  
3 available for inspection by members of the public. The Board shall also post the reports  
4 on its website and create a searchable database by which a user may programmatically  
5 search and access all data in a serialized machine readable format (such as XML) via a  
6 web-services application programming interface.”.

7           **TITLE VI. LOBBYIST DISCLOSURE AMENDMENT ACT.**

8           Sec. 601. Short title.

9           This title may be cited as the “Lobbyist Disclosure Amendment Act of 2010”.

10          Sec. 602. Increased lobbyist disclosure.

11          An Act to regulate certain political campaign finance practices in the District of  
12 Columbia, and for other purposes, effective Aug. 14, 1974 (Pub. L. No. 93-376; D.C.  
13 Official Code § 1-1105.01 *et seq.*) is amended as follows:

14           (a) Section 504 (D.C. Official Code § 1-1105.04) is amended by striking the  
15 phrase “January 15<sup>th</sup>” and inserting the phrase “January 30<sup>th</sup>”.

16           (b) Section 505(a) (D.C. Official Code § 1-1105.05(a)) is amended to read as  
17 follows:

18           “(a) Each registrant shall file with the Director on January 1, April 1, July 1, and  
19 September 1, a report signed under oath concerning his or her lobbying activities during  
20 the previous three-month period ending 20 days before the reporting date. If the registrant  
21 is not an individual, an authorized officer or agent of the registrant shall sign the form. A  
22 registrant must file a separate activity report for each person from whom he or she  
23 receives compensation. Such reports shall be public documents, and shall be posted on

1 the Office’s website, and the Office shall create a searchable database by which a user  
2 may programmatically search and access all data in a serialized machine readable format  
3 (such as XML) via a web-services application programming interface. The report shall be  
4 on a form prescribed by the Director and shall include the following:

5 “(1) A complete and current statement of the information required to be  
6 supplied pursuant to § 1-1105.04;

7 “(2) Total expenditures on lobbying, listed by name of the recipient, and  
8 accounting for the following categories:

9 “(A) Advertising and publications; and

10 “(B) Compensation to others.

11 “(3) Each political expenditure, loan, gift, honorarium, or contribution of \$  
12 50 or more made by the registrant or anyone acting on behalf of the registrant to benefit  
13 an official in the legislative or executive branch, a member of his or her staff or  
14 household or a campaign or testimonial committee established for the benefit of the  
15 official, and shall be itemized by date, beneficiary, amount, and circumstances of the  
16 transaction; including the aggregate of all such expenditures that are less than \$ 50;

17 “(4) All contributions made by any third person directly or indirectly to or  
18 for the benefit of an official in the legislative or executive branch, a member of his or her  
19 staff or household or a campaign or testimonial committee established for the benefit of  
20 the official, and shall be itemized by date, beneficiary, amount, and circumstances of the  
21 transaction; including the aggregate of all such expenditures that are less than \$ 50, which  
22 are in any way earmarked, encumbered, or otherwise directed through or by the  
23 registrant;

1                   “(5) Each official in the executive or legislative branch and any member of  
2 such official’s staff who receives compensation in any manner by the registrant shall be  
3 identified by name and nature of his or her employment with the registrant;

4                   “(6) Each official in the executive or legislative branch with whom the  
5 registrant has had written or oral communications (during the reporting period) related to  
6 lobbying activities conducted by the registrant shall also be included in such report,  
7 identifying the official with whom the communication was made, the date of such  
8 communication, and the nature of such communication, including, to the maximum  
9 extent practicable, a list of bill numbers and references to specific executive branch  
10 actions; and

11                   “(7) Each person whom the registrant has given compensation to lobby on  
12 his or her behalf shall also be listed in such report.”.

13                   (c) A new section 506a is added to read as follows:

14                   “Sec. 506a. Disclosure of client.

15                   “Any lobbyist who has made written or oral communications with a public  
16 official shall, on the request of the official at the time of the communication, state  
17 whether the lobbyist is registered under this Act and identify the client on whose behalf  
18 the communication is made.”.

19                   **TITLE VII. SPENDING TRANSPARENCY.**

20                   Sec. 701. Short title.

21                   This title may be cited as the “Spending Transparency Reform Act of 2010”.

22                   Sec. 702. Spending transparency website.

1 (a) For the purposes of this section, the term “searchable budget database  
2 website” means a website that allows the public at no cost to:

3 (1) Search and aggregate information for the following:

4 (A) The name and principal location or residence of the  
5 entity or recipient of funds;

6 (B) The amount of funds expended;

7 (C) The funding and expending agency;

8 (D) The funding source of the revenue expended;

9 (E) The budget program/activity of the expenditure;

10 (F) A descriptive purpose for the funding action or  
11 expenditure;

12 (G) The expected performance outcome for the funding  
13 action or expenditure;

14 (H) The past performance outcomes achieved for the  
15 funding action or expenditure;

16 (I) Any District audit or report relating to the entity or  
17 recipient of funds or the budget program/activity or agency; and

18 (J) Any reports provided to the District by recipients of  
19 funds;

20 (K) A spending detail broken down by agency, division,  
21 and activity for the current fiscal year, and the three previous fiscal years. For each  
22 agency, division, and activity, funding detail should be broken down into object class and

1 into the type of funding source, for the current fiscal year and the three previous fiscal  
2 years; and

3 (L) Federal grants funds spending by agency, division and  
4 activity and special purpose funds spending by agency, division and activity; and

5 (L) Any other relevant information specified by the Chief  
6 Financial Officer.

7 (2) Programmatically search and access all data in a serialized machine  
8 readable format (such as XML) via a web-services application programming interface.”

9 (b) By October 1, 2011, the Chief Financial Officer shall develop and make  
10 publicly available a single, searchable budget database website including the required  
11 data for the 2012 Fiscal Year. Each District agency shall include a link on the front page  
12 of its website to the budget database website.

13 (c) The Chief Financial Officer shall update the budget database website as new  
14 data becomes available, but no later than 30 days upon receipt of data from the agency.  
15 An updated version of this database shall be made available quarterly.

16 (d) The Chief Financial Officer shall ensure that all data added to the searchable  
17 budget database website remains accessible to the public for a minimum of 10 years.

## 18 **TITLE VIII. CONFORMING LANGUAGE.**

19 Sec. 801. Fiscal impact statement.

20 The Council adopts the fiscal impact statement in the committee report as the  
21 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home  
22 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
23 206.02(c)(3)).

1           Sec. 802. Effective date.

2           This act shall take effect following approval by the Mayor (or in the event of veto  
3 by the Mayor, action by the Council to override the veto), a 30-day period of  
4 Congressional review as provided in section 602(c)(1) of the District of Columbia Home  
5 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
6 206.02(c)(1)), and publication in the District of Columbia Register.