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# FY2023 District of Columbia Budget and Appropriations

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SUMMARY

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**Joseph V. Jaroscak**
Analyst in Economic Development Policy

# FY2023 District of Columbia Budget and Appropriations

The District of Columbia (DC) government's local operating budget and much of its local legislation is subject to congressional approval, pursuant to the plenary legislative authority of Congress over the federal capital granted by the U.S. Constitution. In addition to congressional authority over the DC budget process, annual federal appropriations legislation has typically included a series of federal payments for a variety of services and initiatives in DC. Such legislation also often includes general provisions, specific to DC, that establish fiscal, budgetary, and policy controls on federal (and in some cases, local) DC funds.

Each year, the DC government produces a budget through a process coordinated between the Executive Office of the Mayor and the Council of the District of Columbia (DC council). Under the current process, the budget consists of a federal portion and a local portion, which are adopted by the DC council in two separate bills. Once approved, the federal portion is transmitted by the mayor to the President of the United States, who forwards it to Congress for review, possible modification, and approval through the annual appropriations process. The local portion is submitted by the chair of the DC council to the Speaker of the House of Representatives and the President of the Senate, for review by Congress. In 2013, DC enacted the Local Budget Autonomy Amendment Act of 2012 (D.C. Law 19-321), which amended DC's home rule charter to allow for enactment of DC's local budget after a 30-day congressional review period (also known as the layover period), similar to most other DC laws, as opposed to passing the local budget through the federal appropriations process. After a series of legal and legislative challenges, the act was upheld by a DC Superior Court ruling. The DC government has observed the act in its budget process since 2016.

On March 28, 2022, the Biden Administration submitted its full FY2023 budget request, which included $773.9 million in federal payments to DC. The DC government passed a $20 billion budget on September 23, 2022. On July 26, 2022, the House passed a version of the Financial Services and General Government (FSGG) appropriations bill in Division D of H.R. 8294, which would provide $793.9 million in federal payments to DC. The Chair of the Senate Committee on Appropriations released a draft bill and draft explanatory statement on July 28, 2022, with $791.3 million in federal payments to DC.

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# Introduction

The U.S. Constitution provides Congress with plenary legislative authority over the District of Columbia (DC) as the federal capital. With the passage of the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Home Rule Act; P.L. 93-198), Congress granted DC limited home rule authority and empowered DC residents to elect a mayor and city council. Congress retained its authority to review and approve all DC laws, including DC's annual budget and capital budget.[1] In addition to its budget authority, generally, Congress annually appropriates a series of federal payments to DC for a variety of purposes, funded through the Financial Services and General Government (FSGG) appropriations bill.[2]

The provisions in annual federal appropriations acts related to the DC budget typically include the following three components:

1. Federal payments for specific purposes;[3]
2. Approval, disapproval, or modifications to DC's operating budget;[4] and
3. General provisions pertaining to fiscal, budgetary, and policy directives, controls, and restrictions.[5]

# District of Columbia Budget Process

The DC Home Rule Act codifies the process by which the Executive Office of the Mayor and Council of the District of Columbia (DC council) develop DC's operating budget. Under this process, the mayor establishes a proposed budget, consistent with guidance on funding levels from the DC Chief Financial Officer. The mayor's budget also considers agency requests and other analysis by the Executive Office of the Mayor.

The DC council serves both oversight and deliberative legislative functions related to the budget process. Each DC council committee holds performance review hearings and budget hearings for each agency under its jurisdiction. Committees compile information and recommendations from this oversight process into committee reports, which provide the basis for the development of a unified balanced budget at the council level.[6]

As required by the Home Rule Act, the DC council must approve a budget within 70 days after receiving a budget proposal from the mayor.[7] The budget consists of a federal portion and a local portion, which are adopted by the DC council in two separate bills. Once approved, the mayor transmits the federal portion to the President, who forwards it to Congress for review, possible modification, and approval through the annual appropriations process. The local portion is

[1] For more information on the DC budget process, see Council of the District of Columbia, *Budget Process (Step-by-Step)*, https://www.dccouncilbudget.com/budget-process-step-by-step.

[2] For more information on FSGG appropriations, see CRS Report R47170, *Financial Services and General Government (FSGG) FY2023 Appropriations: Overview*, by Baird Webel

[3] The federal payments for FY2022 and proposed amounts for FY2023 are enumerated in **Table 1** of this report.

[4] D.C. Code §1-204.46.

[5] For an overview of some such provisions, see "General Provisions: Key Policy Issues" in this report.

[6] Council of the District of Columbia, Office of the Budget Director, *Budget Process (Step-by-Step)*, https://www.dccouncilbudget.com/budget-process-step-by-step.

[7] 87 Stat. 774.

submitted by the chair of the DC council to the Speaker of the House of Representatives and the President of the Senate, for a 30-day period of review by Congress.[8] If Congress does not act to disapprove the legislation within this 30-day period, it becomes law.[9]

Since the passage of P.L. 109-115 for FY2006, DC appropriations have been included in a multi-agency appropriations bill. In FY2006 and FY2007, DC appropriations were included in Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies appropriations bills (P.L. 109-115 and P.L. 110-5, respectively). Since FY2009, DC appropriations have been included in the Financial Services and General Government appropriations bill (FSGG). Before FY2006, DC appropriations were provided by the House and the Senate in a stand-alone bill.

## Local Budget Autonomy

Prior to 2013, Congress reviewed and approved the DC local budget through the federal appropriations process. Some DC political leaders had expressed concern about the effect of delays in the annual appropriations process on the ability of the DC government to manage its affairs and deliver public services. In 2013, DC enacted the Local Budget Autonomy Amendment Act of 2012 (D.C. Law 19-321).[10] The act amended DC's home rule charter to allow for enactment of DC's local budget after a 30-day congressional review period (also known as the layover period), similar to most other DC laws.[11] The DC Board of Elections placed the proposed charter amendment on an April 23, 2013, ballot. DC voters approved the local budget autonomy charter amendment with 83% of the vote in support of the amendment. The act faced legal and federal legislative challenges.[12] A 2016 DC Superior Court ruling upheld the act.[13] The DC government has observed the act in its budget process since 2016.[14] Congress has continued to include language in continuing budget resolutions allowing DC to expend local funds on programs and activities included in its general fund budget (revenues generated by DC).

[8] Government of the District of Columbia, *Fiscal Year 2023 Approved Budget and Financial Plan*, August 1, 2022, https://cfo.dc.gov/page/annual-operating-budget-and-capital-plan.

[9] District of Columbia Council, *How a Bill Becomes a Law: District of Columbia Legislative Process*, https://dccouncil.us/how-a-bill-becomes-a-law/.

[10] *D.C. Law 19-321, Local Budget Autonomy Amendment Act of 2012*, https://code.dccouncil.us/dc/council/laws/19-321.

[11] Prior to the change, DC officials expressed concern regarding delays in the passage of federal appropriations extending beyond the start of a given fiscal year. For more information, see CRS Report R43253, *FY2014 Appropriations: District of Columbia*, by Eugene Boyd.

[12] See Council of the District of Columbia v. Jeffrey S. Dewitt, 144 Daily Wash. L. Rptr. 893 (D.C. Super. Ct. March 18, 2016).

[13] "Superior Court Judge Sides with D.C. Lawmakers on Control of Locally-Raised Dollars," *Washington Post*, March 18, 2016, https://www.washingtonpost.com/local/public-safety/superior-court-judge-sides-with-dc-lawmakers-on-control-of-locally-raised-dollars/2016/03/18/1059c6e6-ed55-11e5-a6f3-21ccdbc5f74e_story.html.

[14] Information provided by the District of Columbia Office of the Chief Financial Officer, 2020.

# FY2023 Appropriations of Federal Payments for the District of Columbia

## The President's FY2023 Budget Request

On March 28, 2022, the Biden Administration submitted its full FY2023 budget request. The President's proposed budget for federal payments to DC was included in an appendix for *Other Independent Agencies*.[15] The Administration's proposed budget included $773.9 million in federal payments to the District of Columbia for activities including, but not limited to, court services, offender supervision, and public defender services.

## District of Columbia FY2023 Budget

On March 16, 2022, the DC mayor submitted a proposed budget to the DC council.[16] The council approved a budget of $19.6 billion on May 24, 2022, and transmitted it to the mayor on July 5, 2022.[17] The mayor signed a version of the budget on July 13, 2022.[18] The mayor transmitted the federal portion of the DC budget to President Biden on August 1, 2022.[19] Also on August 1, 2022, the DC council chair submitted the local budget to the Speaker of the House and the President of the Senate for congressional review, in accordance with the Local Budget Autonomy Amendment Act of 2012 (D.C. Law 19-321).[20]

## Congressional Action

The House Financial Services and General Government Appropriations Act, 2023 (H.R. 8254), was marked up in subcommittee on June 16, 2022; marked up in full committee on June 24, 2022; and reported (H.Rept. 117-393) on June 28, 2022. On July 26, 2022, the House passed a version of the FSGG appropriations bill in Division D of H.R. 8294.

The Senate Committee on Appropriations did not hold hearings on the FY2023 budget request for federal payments for DC before the beginning of FY2023. However, the committee chair released a draft bill and draft explanatory statement on July 28, 2022.[21]

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[15] Office of Management and Budget, *Budget of the U.S. Government: Fiscal Year 2023*, Appendix, March 28, 2022, pp. 1240-1244, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf.

[16] Letter from Muriel Bowser, Mayor of the District of Columbia, to Phil Mendelson, Chair, Council of the District of Columbia, March 16, 2022, https://lims.dccouncil.us/downloads/LIMS/49080/Introduction/B24-0715-Introduction.pdf.

[17] District of Columbia Council, B24-0716—Fiscal Year 2023 Local Budget Act of 2022: Legislative History, https://lims.dccouncil.us/Legislation/B24-0716; District of Columbia Council, B24-0715—Fiscal Year 2023 Federal Portion Budget Request Act of 2022: Legislative History, https://lims.dccouncil.us/Legislation/B24-0715.

[18] *D.C. Act 24-0715, Fiscal Year 2023 Federal Portion Budget Request Act of 2022*, https://lims.dccouncil.us/downloads/LIMS/49080/Signed_Act/B24-0715-Signed_Act.pdf; *D.C. Act 24-0716, Fiscal Year 2023 Local Budget Act of 2022*, https://lims.dccouncil.us/downloads/LIMS/49081/Signed_Act/B24-0716-Signed_Act.pdf.

[19] Letter from Muriel Bowser, Mayor of the District of Columbia, to The Honorable Joseph R. Biden, Jr., President of the United States, August 1, 2022, https://app.box.com/s/bzjtghnj6tsfqxvlleob88r41k7lildf.

[20] Letter from Phil Mendelson, Chair, Council of the District of Columbia, to The Honorable Nancy Pelosi and The Honorable Kamala D. Harris, Speaker of the House and President of the Senate, August 1, 2022, https://app.box.com/s/bzjtghnj6tsfqxvlleob88r41k7lildf.

[21] Senate Committee on Appropriations, "Chairman Leahy Releases Fiscal Year 2023 Senate Appropriations Bills," July 28, 2022, https://www.appropriations.senate.gov/news/majority/breaking-chairman-leahy-releases-fiscal-year-

## Continuing Resolution

On September 30, 2022, the President signed the Continuing Appropriations Act, 2023 (P.L. 117-180).[22] Section 132 of the Act provided congressional approval of the DC government's general fund budget and capital budget for FY2023.

**Table 1. District of Columbia Appropriations FY2022-FY2023: Federal Payments**

In Millions of Dollars

| | FY2022 Enacted (P.L. 117-103) | FY2023 District of Columbia Request | FY2023 Presidential Budget Request | FY2023 House Passed (H.R. 8294) | FY2023 Senate Committee Majority Draft | FY2023 Enacted |
|---|---|---|---|---|---|---|
| Resident Tuition Support | 40.0 | 20.0 | 20.0 | 40.0 | 40.0 | — |
| Emergency Planning and Security Costs | 25.0 | 30.0 | 30.0 | 30.0 | 30.0 | — |
| DC Courts | 257.6 | 365.1 | 295.6 | 295.6 | 294.0 | — |
| Defender Services | 46.0 | 46.0 | 24.0 | 24.0 | 24.0 | — |
| Court Services and Offender Supervision Agency | 286.4 | —[a] | 281.5 | 281.5 | 281.5 | — |
| The Public Defender Service | 52.6 | —[a] | 53.6 | 53.6 | 53.6 | — |
| Criminal Justice Coordinating Council | 2.2 | 2.5 | 2.5 | 2.5 | 2.5 | — |
| Judicial Commissions | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | — |
| School Improvement | 52.5 | 52.5 | 52.5 | 52.5 | 52.5 | — |
| DC National Guard | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | — |
| Testing and Treatment of HIV/AIDS | 4.0 | 5.0 | 5.0 | 5.0 | 4.0 | — |

2023-senate-appropriations-bills.

[22] For information on the Act, see CRS Report R47283, *Overview of Continuing Appropriations for FY2023 (Division A of P.L. 117-180)*, by Drew C. Aherne and Sarah B. Solomon.

| | FY2022 Enacted (P.L. 117-103) | FY2023 District of Columbia Request | FY2023 Presidential Budget Request | FY2023 House Passed (H.R. 8294) | FY2023 Senate Committee Majority Draft | FY2023 Enacted |
|---|---|---|---|---|---|---|
| DC Water and Sewer Authority[b] | 8.0 | 8.0 | 8.0 | 8.0 | 8.0 | — |
| **Federal Payments Total** | **775.5** | **530.3** | **773.9** | **793.9** | **791.3** | **—** |

**Source:** P.L. 117-103; DC Act 24-485, Fiscal Year 2023 Federal Portion Budget Request Act of 2022, https://lims.dccouncil.gov/Legislation/B24-0715; OMB, Budget of the U.S. Government: Fiscal Year 2023, Appendix, March 28, 2022, pp. 1233-1245, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf; Senate Committee on Appropriations, "Chairman Leahy Releases Fiscal Year 2023 Senate Appropriations Bills," July 28, 2022, https://www.appropriations.senate.gov/news/majority/breaking-chairman-leahy-releases-fiscal-year-2023-senate-appropriations-bills.

**Notes:** Figures may not sum to totals due to rounding.

a. This item is not included in the DC Federal Portion Budget Request Act. This is a federally chartered entity working exclusively on behalf of the District. Its budget request is submitted under a separate account.

b. The federal payment for the DC Water and Sewer Authority includes a provision requiring a 100% match from the authority.

# General Provisions: Key Policy Issues

Generally, FSGG appropriations acts include a series of general provisions pertaining to federal payments and other sources of DC budgetary funding. These provisions can be grouped into several distinct but overlapping categories, with the most predominant being provisions related to fiscal and budgetary directives and controls. Other provisions include administrative directives and controls, limitations on lobbying for statehood or congressional voting representation, congressional oversight, and congressionally imposed restrictions and prohibitions related to social policy. The following sections provide an overview of some proposed and enacted provisions restricting or prohibiting the use of federal and/or local funds for particular local social policy initiatives in DC.[23]

## Abortion Services

The use of public funding for abortion services in DC is a perennial issue debated in Congress during annual deliberations on DC appropriations.[24] President Biden's FY2023 budget request did not include any provisions that would restrict the use of funds by the DC government for abortion

[23] Such provisions are limitations (also known as limitation provisions or, more colloquially, riders) that restrict/prohibit the use of funds for certain purposes. For information on limitations, see CRS Report R41634, *Limitations in Appropriations Measures: An Overview of Procedural Issues*, by James V. Saturno.

[24] Since 1979, with the passage of the District of Columbia Appropriations Act of 1980 (P.L. 96-93; 93 Stat. 719), Congress has placed some limitation or prohibition on the use of public funds for abortion services for District residents. For a detailed overview of these provisions, see CRS Report R41772, *District of Columbia: A Brief Review of Provisions in District of Columbia Appropriations Acts Restricting the Funding of Abortion Services*.

services.[25] The House-passed version and the Senate Committee Chair's draft did not include limiting provisions related to abortion.

## DC Voting Representation in Congress

For several years, the general provisions of annual appropriation acts have prohibited the DC government from using federal or local funds to lobby for voting representation in Congress, including statehood.[26] The President's budget included the following three provisions that would limit this type of activity:

1. SEC. 802. None of the Federal funds provided in this Act shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.
2. SEC. 804. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).
3. SEC. 806. (a) None of the Federal funds contained in this Act may be used by the District of Columbia Attorney General or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.[27]

The House-passed appropriations bill and the Senate Committee Chair's draft did not include such limiting provisions.

## Needle Exchange

Addressing the spread of HIV and AIDS among intravenous drug abusers has been a policy issue of ongoing debate in congressional appropriations for DC.[28] Some appropriations acts have included provisions to prohibit or restrict the use of funds to establish a needle exchange program designed to reduce the spread of HIV and AIDS among users of illegal drugs.

The prohibition on the use of both federal and local funds for a needle exchange program was first approved by Congress as Section 170 of the District of Columbia Appropriations Act, 1999 (Division A of P.L. 105-277). The FY1999 act did allow private funding of needle exchange programs. The Financial Services and General Government Appropriations Act, 2008 (Division D, Title VIII of P.L. 110-161) contained language that further modified the needle exchange provision included in previous appropriations acts. This act allowed the use of local (but not federal) funds for a needle exchange program, a provision that has been continued in subsequent

[25] OMB, Budget of the U.S. Government: Fiscal Year 2023, Appendix, March 28, 2022, pp. 1244-1245, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf.

[26] Several similar provisions date back to the 1980s and 1990s.

[27] OMB, Budget of the U.S. Government: Fiscal Year 2023, Appendix, March 28, 2022, p. 1244, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf.

[28] Delegate Eleanor Holmes Norton, "HIV Progress in D.C. Accelerated by Federal Payments Norton Secures and Her Removal of the Needle Exchange Rider," press release, August 21, 2020, https://norton.house.gov/media-center/press-releases/hiv-progress-in-dc-accelerated-by-federal-payments-norton-secures-and.

fiscal years. Under the Consolidated Appropriations Act, 2010 (Division C, Title VIII of P.L. 111-117), the provision was further modified to prohibit the use of federal funds in locations deemed by local professionals in public health or law enforcement to be "inappropriate" for needle exchange.

The President's FY2023 budget would continue a provision prohibiting the use of federal funds for the distribution of needles or syringes "for the purpose of preventing the spread of blood borne pathogens in any location that has been determined by the local public health or local law enforcement authorities to be inappropriate for such distribution."[29] The House-passed appropriations bill and the Senate Committee Chair's draft did not include limiting provisions related to needle exchange programs in DC.

## Schedule I Substances

Several general provisions included in appropriations acts have restricted or prohibited the DC government from implementing local laws related to the legalization or decriminalization of schedule I controlled substances, including marijuana.[30] These provisions have varied depending on the legislation that they were designed to restrict, ranging from legalization to decriminalization of such substances for medical or recreational purposes.[31]

In 2014, the DC council passed the Marijuana Possession Decriminalization Amendment Act of 2014.[32] The act decriminalized the possession of small amounts of marijuana by making such activity a civil violation subject to a civil fine of $25.[33] The act went into effect in July 2014. Also in 2014, almost 65% of DC voters voted to approve Initiative 71 to legalize the possession, growth, and exchange of certain amounts of marijuana among individuals aged 21 and older in DC.[34] Subsequently, the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) included a general provision prohibiting the use of funds contained in the act to carry out such laws or regulations. Similar provisions have been included in subsequent appropriations acts. In November, 2020, approximately 76% of DC voters voted to approve ballot Initiative 81, to decriminalize some psychedelic plants and fungi.[35]

The President's FY2023 budget included provisions that would continue to prohibit the use of federal or local funds to enact or implement the legalization or decriminalization of schedule I

[29] OMB, Budget of the U.S. Government: Fiscal Year 2023, Appendix, March 28, 2022, p. 1244, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf.

[30] For a definition of schedule I substances, see 21 U.S.C. §812.

[31] In 1998, District of Columbia voters approved Initiative 59, which allowed the use of medical marijuana to assist persons suffering from debilitating health conditions and diseases, including cancer and HIV infection. Certification and implementation of the initiative, however, were delayed over a decade by Congress due to the passage of the "Barr Amendment," which, in a series of DC appropriations acts, prohibited the use of appropriated funds to conduct any ballot initiative that sought to legalize marijuana or otherwise reduce penalties for its use.

[32] District of Columbia Council, *Marijuana Possession Decriminalization Amendment Act of 2014*, July 2014, https://lims.dccouncil.gov/Legislation/B20-1064

[33] Aaron C. Davis, "D.C. Council Votes to Eliminate Jail Time for Marijuana Possession," *Washington Post*, March 5, 2014.

[34] District of Columbia Council, *Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014*, February 2015, https://lims.dccouncil.gov/Legislation/B20-1064.

[35] Justin Wm. Moyer, "D.C. Voters Approve Ballot Question to Decriminalize Psychedelic Mushrooms," *Washington Post*, November 3, 2020, https://www.washingtonpost.com/local/dc-politics/dc-magic-mushrooms-result/2020/11/03/bb929e86-1abc-11eb-bb35-2dcfdab0a345_story.html.

substances.[36] The House-passed appropriations bill and the Senate Committee Chair's draft did not include limiting provisions pertaining to the legalization of schedule I substances.

## Concluding Observations

Congress maintains plenary authority over DC legislation and budgets, as granted under the U.S. Constitution. One way in which Congress has exercised its authority has been through general provisions in annual federal appropriations legislation. Some Members of Congress have proposed legislation that would modify the role of Congress in passing local DC legislation. For instance, in the 117th Congress, Delegate Eleanor Holmes Norton introduced the District of Columbia Legislative Autonomy Act (H.R. 411), which would amend the DC Home Rule Act by eliminating the process of congressional review for legislation passed by the DC council.

Other proposed legislation related to voting representation in Congress for DC residents would also likely change the role of Congress in local legislation and policy decisions. For information on such proposed legislation, please see CRS Insight IN11599, *District of Columbia Voting Representation Proposals in the 117th Congress*, by Joseph V. Jaroscak.

## Author Information

Joseph V. Jaroscak
Analyst in Economic Development Policy

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[36] OMB, Budget of the U.S. Government: Fiscal Year 2023, Appendix, March 28, 2022, p. 1244, https://www.whitehouse.gov/wp-content/uploads/2022/03/oia_fy2023.pdf.