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Appropriations for FY2003: District of Columbia

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Summary

On February 20, 2003, President Bush signed the Consolidated Appropriations Act for FY2003, P.L. 108-7 (formerly H. J. Res. 2). Division C of the act appropriates $512 million in federal funds for the District of Columbia for fiscal year 2003. On February 13, 2003, the House and the Senate approved the conference report (H.Rept. 108-10) accompanying H. J. Res. 2. The Senate approved an earlier version of H.J.Res. 2, on January 23, 2003, that would have allowed the District of Columbia to spend $5.8 billion in locally raised funds while Congress completed action on the proposed $517 million in federal contributions to the District's FY2003 budget. The 107th Congress failed to complete action on the District's FY2003 Appropriations Act before it adjourned. As a consequence, Congress passed eight continuing budget resolutions freezing District of Columbia and several other FY2003 appropriations bills at their FY2002 level until a budget compromise could be reached during the 108th Congress.

On October 2, 2002, several days after the submission of a revised FY2003 budget by District officials, the House Appropriations Committee reported the District of Columbia Appropriations Act for FY2003, H.R. 5521. In response to a congressionally imposed October 1, 2002 deadline, District of Columbia officials completed action on a revised budget for FY2003 on September 27, 2002. Passage of an amended FY2003 budget by District officials was aimed at addressing a $323 million budget shortfall identified by the city's chief financial officer.

On July 26, 2002, the Senate Appropriations Committee reported S. 2809, the District of Columbia Appropriations Act for FY2003. The Senate and House bills included $517 million in special federal payments to the District of Columbia, which was significantly less than the $592 million requested by the District. The House and Senate bills included special federal payments of $17 million for the District's college access program and $15 million for security and emergency preparedness activities associated with the city's status as the national capital. The Senate bill included $15 million for capital infrastructure development while the House bill included $24 million, which was less than the $96 million requested by the District.

The House and Senate bills, as reported during the 107th Congress, would have continued to allow the District to use its local funds to administer a domestic partners health insurance act approved by the city in 1992. Prior to the passage of the P.L. 107-96, the District of Columbia Appropriations Act for FY2002, Congress prohibited the implementation of the Health Care Benefits Expansion Act. The Act allows unmarried couples to register as domestic partners and extends health care benefits of city employees to unrelated individuals registered as domestic partners. P.L. 108-7, includes a provision included in the House bill prohibiting the use of local and federal funding of a needle exchange program. The Senate bill would have allowed the use of District funds for a needle exchange in an effort to reduce the spread of HIV/AIDS. In addition, the final act included a provision found in both House and Senate bills prohibiting the use of District or federal funds to prepare a medical marijuana ballot initiative and the use of federal or District funds for abortion services except in instance of rape or incest. This report will be updated as warranted.

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Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, consolidated, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bound by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Interior Appropriations Subcommittees. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

NOTE: A Web version of this document with active links is available to congressional staff at: http://www.crs.gov/products/appropriations/apppage.shtml.

Most Recent Developments

On February 20, 2003, the President signed into law the Consolidated Appropriations Act for FY2003, P.L. 108-7, formerly H.J.Res. 2 The Act consolidates under one omnibus appropriations measure 11 appropriations acts, including the District of Columbia Appropriations Act for FY2003, that the 107th Congress failed to complete action on before it adjourned. On February 13, 2003, the House and Senate approved the conference report (H.Rept. 108-10) accompanying H.J.Res. 2. The Senate approved its version of H.J.Res. 2 on January 23, 2003. A few weeks earlier, on January 8, 2003, the House approved its initial version of H.J.Res. 2, extending until January 31, 2003, P.L. 107-229, a continuing appropriations measure that froze at the FY2002 approved funding level appropriations for 11 of the 13 appropriations bill for FY2003 that had not yet been approved by Congress, including the District of Columbia Appropriations Act for FY2003. The House version of the bill included a provision that would have allowed the District of Columbia to spend $5.8 billion in locally raised funds while Congress completed action on the proposed $517 million in federal contributions to the District's FY2003 budget. On November 13, 2002, Congress passed H.J.Res. 124, a continuing resolution extending until January 11, 2003, P.L. 107-229, a continuing appropriations measure. The measure effectively postponed further congressional consideration of District of Columbia appropriations bill until the start of the 108th Congress.

Table 1. Status of District of Columbia Appropriations: FY2003

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conf. Report Approved		Public Law
House	Senate						House	Senate	
9/26/02	7/26/02	H.Rept. 107-716 10/2/02	(1)	S.Rept. 107-225 9/26/02	(1)	H Rept. 108-10 2/13/03	338-83 2/13/03	78-20 2/13/03	P.L. 108-7 2/20/03

(1) The 107th Congress adjourned without the House or Senate passing their respective versions of the District of Columbia Appropriations Act for FY2003 (H.R. 5521 or S. 2809). The 108th Congress considered the FY2003 appropriations for the District of Columbia as a part of an omnibus appropriations bill (H.J.Res. 2) which the Senate amended and passed on January 23, 2003.

Background

Since the phaseout of the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority)[1] in September 2001, and the signing of the District of Columbia Appropriations Act for FY2002, P.L. 107-96, on December 21, 2001, the District of Columbia government has continued to make progress in improving the delivery of services and in the city's long-term financial health; however, issues remain. Most notably, the city faced a projected budget shortfall of $323 million for FY2003, if corrective action was not taken. The CFO's Comprehensive Annual Financial Report (CAFR), released in January 28, 2002, certified that the city had achieved a $77.6 million budget surplus for FY2001, resulting in an accumulated General Fund balance of $526 million. This achievement marks the city's fifth consecutive year of balanced or surplus budgets. However, the significance of this achievement has been eroded by the city's projected fiscal imbalance of $323 million.

During the last year, the District of Columbia's elected and appointed leadership addressed a number of other governance-related issues, including school reform and medical services for the uninsured. School reform, according to observers, is a work-in-progress. The new Board of Education also had to address a $40 million budget deficit and issues surrounding special education services and the certification of charter schools. The downsizing of D.C. General Hospital and the creation of an alternative health care delivery system for the city's poor residents was, and continues to be, a contentious political issue. The financial crisis facing the city's lead provider of health care for the city's indigent population, Greater Southeast Community Hospital, has raised concerns about the viability of the new system that replaced the city's public hospital, D.C. General.

District of Columbia Financial Condition

The District of Columbia Financial Responsibility and Management Assistance Act of 1995, P.L. 104-8, created the Authority and the Office of Chief Financial Officer (OCFO). Under the law the CFO is charged with producing audited statements of the city's financial condition; preparing the city's annual budget; borrowing on behalf of the District; collecting receipts, payments, and transactions for the District; investing the city's funds; and administering and enforcing tax laws. Working in concert, the District's elected political leadership, the presently dormant Authority and the CFO implemented a series of financial and management reforms.

The District ended FY1997 with a surplus of $186 million. For FY1998, the city's budget surplus was $445 million.[2] After a 13-week delay, the city's CFO reported an FY1999 surplus of $135 million. For FY2000, the general fund surplus was $241 million, and for FY2001, $77.6 million.[3]

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[1] The Authority is also known as the control board.

[2] The District's FY1998 surplus was, in part, the result of the National Capital Revitalization Act of 1997

(P.L. 105-33). The Revitalization Act, which improved the city's fiscal prospects through the infusion of over $5 billion in federal funds, transferred financial responsibility for a number of functions to the federal government, including accumulated pension liability for police, firefighters, teachers, and judges. The act also increased the federal share for Medicaid from 50% to 70%, and transferred responsibility for housing District felons to the federal government.

[3] Government of the District of Columbia, Office of the Chief Financial Officer. *2001Comprehensive Annual Financial Report (CAFR).* (Washington: January 28, 2002), p. 1. Available online at http://cfo.dc.gov/cafr/2001/index.shtm.

For FY2003, the city faced a projected budget shortfall of $323 million according to the CFO.[4] The shortfall has required significant reductions in city services including education and human services. On September 17, 2002, the city's CFO submitted revised budget estimates for FY2003 to FY2006, which included a projected deficit of $323 million for FY2003. In response to the CFO's findings and at the urging of Congress, the mayor and the city council submitted a revised budget on September 27, 2002, aimed at addressing the budget shortfall.

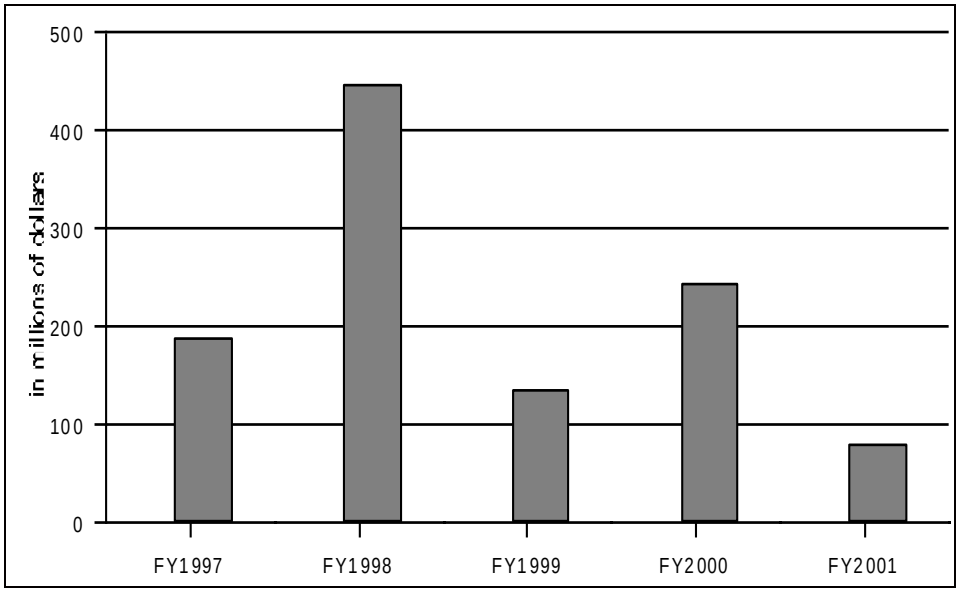
The Office of the CFO has played a critical role in the city's success in maintaining budget discipline and its return to fiscal health. On January 28, 2002, the CFO released the city's Comprehensive Annual Financial Report (CAFR) for FY2001. The report, which is a critical barometer of the city's financial health, showed that it had a budget surplus of $77.6 million at the end of FY2001. The FY2001 CAFR met the CFO's key objectives of producing an unqualified audit opinion and a balanced or surplus budget for the fifth consecutive year.

In 2001, the city approved amendments to the D.C. Code making the OCFO a permanent part of the city's governing structure. Without such legislation or the intervention of Congress, the OCFO would have ceased operating on September 30, 2001, the end of the control period.[5] In July 2001, a conference committee considering supplemental appropriations for the District of Columbia for FY2001 offered, but later withdrew, a proposal regarding the District's Chief Financial Officer. On June 19, 2001, the city council held a public hearing on the Independence of the Chief Financial Officer Establishment Act of 2001, B14-0254. The legislation, which makes the position of CFO permanent; provides for the appointment and removal of the CFO by the mayor, with the consent of the city council during a non-control year; and transfers to the CFO the responsibility for the management of all executive branch agencies involved in managing the city's finances. The bill was approved by the Council by a voice vote on July 10, 2001 as legislative act 14-089.

[4] Government of the District of Columbia, Office of the Chief Financial Officer. *Revised Revenue Estimates for FY2003-FY2006.* (Washington: September 17, 2002) p. 1. Available online at: [http://cfo.dc.gov/news/2002/september/rev_est_analysis091702.shtm]

[5] Under P.L. 104-8, a control period is initiated during any year in which the city fails to achieve a balanced or surplus budget. A control period is terminated after the city has produced four consecutive years of balanced or surplus budgets. Administrative authority reverts to the Mayor. During a control period authority over the operations of the city government rests with the control board.

Figure 1. Year-End General Fund Balance: FY1997-FY2001



Health Care Safety Net Administration

Reform of the city's health care delivery system for the poor continues to be a divisive political issue. During the past 2 years, the city's political leadership has become bitterly divided over the downsizing of D.C. General Hospital, the demise of the Public Benefit Corporation (PBC), and the restructuring of the city's health care delivery system for indigent and uninsured residents of the city. The downsizing and restructuring of the hospital from a 250-bed advance trauma center to a community access hospital that treats and releases or transfers patients within 23 hours of admittance spawned a last minute challenge to the mayor's reelection bid.

Reform in the city's delivery of health care to the poor was sought by Congress because of the PBC's mismanagement of D.C. General Hospital. From 1997 to its dismantling in 2001, the PBC amassed $109 million in unbudgeted loans from the city, using its power to borrow from the city's general fund to cover deficit spending and defer mounting debt. In addition to these questionable financial management practices, the PBC had been the subject of newspaper stories detailing questionable hiring practices, including the hiring of friends and relatives of city council members and former associates of the Executive Director of the PBC.

The new system administered by the newly created Health Care Safety Net Administration, which was created with the passage of the Health Care Privatization Act of 2001 (D.C. Law 14-18) and replaced the PBC, began functioning on April 21, 2001. It provides health care services to District residents with incomes that do not exceed 200% of the poverty level through the Health Care Alliance, a coalition of health care providers headed by Greater Southeast Community Hospital, and including Chartered Health Plan, Unity Health Care, Children's National Medical Center, the George Washington University Hospital, and the District of Columbia Department of Health.

Critics of the new plan complained that health care services to the poor would be severely curtailed, while supporters praised it as responsive and as an effective means of widening the health care choices of the city's uninsured while reducing the cost of care. The effectiveness of the new system has been called into question by two recent revelations. First, Greater Southeast

Community Hospital, the lead provider of health care services to the city's indigent population, faces a financial crisis caused, in some part, by security fraud involving the primary creditor to its parent company. The hospital's weakened financial condition has resulted in a curtailing of services at the hospital and a resulting shift of demand for services to other hospitals. The hospital's weakened financial condition also provides new evidence for critics that the system of privatizing care is flawed.

Second, an October 2, 2002 audit by the city's Inspector General found significant problems in the Department of Health's oversight of the city's contract with the Health Care Alliance and the Health Care Alliances administration of the enrollment process. Specifically, the report noted that the Department of Health had failed to hire critical personnel in a timely fashion, and the Health Care alliance had failed to properly screen thousands of ineligible enrollees. The audit found that the Alliance rolls included individuals with unverified addresses and incomes, third party insurance, invalid social security numbers, and incomes exceeding enrollment maximums. Enrollment rules governing eligibility require enrollees to show proof of District residency, have incomes less than 200% of the poverty level, and have no other health coverage, including Medicaid. Supporters of the city's health care privatization efforts contend that the system is superior to the one it replaced – D.C. General – the city's public hospital.

Budget Request

FY2003: The President's Budget Request

On February 4, 2002, the Bush Administration released its FY2003 budget recommendations. The Administration's proposed budget included $378.8 million in federal payments to the District of Columbia.[6] An overwhelming percentage of the President's proposed federal payments and assistance to the District involve the courts and criminal justice system. This includes $161.9 million for the Court Services and Offender Supervision Agency for the District of Columbia, an independent federal agency that has assumed management responsibility for the District's pretrial services, adult probation, and parole supervision functions. In addition, the Administration requested $159 million in support of court operations, and $32 million for Defender Services. These three functions (court operations, defender services, and offender supervision) represent $352.9 million, or 93.2% of the President's proposed $378.8 million in federal payments to the District of Columbia (see **Table 2**).

FY2003: District's Budget Request

On June 4, 2002, District officials transmitted the city's $5.8 billion budget for FY2003 to the President for review and approval. On July 11, 2002, the Bush Administration transmitted the city's budget to Congress for its review and approval. The city's initial operating budget included a $70 million reserve fund. In addition, the District's budget would have decreased local funding for public education by $48 million while seeking $23.2 million in special federal payments for charter school financing, early childhood education, and special education. The District's initial budget also would have increased funding for human support services by $680 million and for general government support by $42.6 million.

[6] U.S. Office of the President. *Budget of the United States Government, Fiscal Year 2003 Appendix (*Washington, GPO, 2002), p. 1096-1108.

On September 27, 2002, the District submitted an amended budget for FY2003, intended to address a $323 million projected deficit. The District's Fiscal Year 2003 Budget Request Amendment Act, A14-46, would partially address the budget deficit by reducing total operating expenses by approximately 3.5%. The proposed reductions included government support activities (6.4%), economic development activities (8.7%), public safety (3.5%), public education (3.4%) and human services (3.6%). The amended budget must be approved by Congress (see Table 3). The District of Columbia Appropriations Act for FY2003 is one of several appropriations bills that the 107th Congress did not pass. It has been included in a series of continuing appropriations.

FY2003: Section 302(b) Suballocation

Section 302(a) of the Congressional Budget Act requires that the House and Senate pass a concurrent budget resolution establishing an aggregate spending ceiling (budget authority and outlays) for each fiscal year. These ceilings are used by House and Senate appropriators as a blueprint for allocating funds. Section 302(b) of the Congressional Budget Act of 1974 requires appropriations committees in the House and Senate to subdivide their Section 302(a) allocation of budget authority and outlays among the 13 appropriations subcommittees. The House Appropriations Committee approved a Section 302(b) suballocation of $517 million in budget authority for FY2003 for the District of Columbia.

Congressional Action on the Budget

Congress not only appropriates federal payments to the District to fund certain activities, but also reviews the District's entire budget, including the expenditure of local funds. The District subcommittees of both the House and Senate Appropriations Committees must approve—and may modify—the District's budget. House and Senate versions of the District budget are reconciled in a joint conference committee and must be agreed to by the House and the Senate. After this final action, the District's budget is forwarded to the President, who can sign it into law or veto it.

108th Congress

The 107th Congress was unable to complete action on 11 appropriations bills, including the District of Columbia Appropriations Act for FY2003, before adjourning. The 108th Congress took up consideration of these bills in early January 2003, and eventual passed a consolidated appropriation. In the interim Congress passed a series of continuing budget resolutions aimed at providing temporary funding for affect programs and activities.

Table 2. District of Columbia General and Special Federal Payment Funds: Proposed FY2003 Appropriations

(in millions of dollars)

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
Federal Payments: General and Special Fund						
Resident Tuition Program	17.0	17.0	17.0	17.0	17.0	17.0
Emergency Planning and Security	16.06	15.0	15.0	15.0	15.0	15.0

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
—Development of an Emergency Ops. Plan	0.0	0.0	0.0	0.0	0.0	0.0
—Emergency Plan Implementation	0.0	0.0	0.0	0.0	0.0	0.0
—World Bank/IMF reimbursement	[3.4]	0.0	0.0	0.0	0.0	0.0
Hospital Bioterrorism Preparedness	0.0	0.0	0.0	0.0	10.0	10.0
—Children's Nat. Med. Ct. decontamination facility	0.0	0.0	0..0	0..0	[5.0]	[5.0]
—Wash. Hosp. Center decontamination facility	0.0	0.0	0.0	0.0	[5.0]	[5.0]
D.C. Courts Operation	112.2	159.0	159.0	160.5	166..2	161.9
—Court Operations	[105.7]	[127.4]	[127.4]	[160.5]	[131.0]	
—Court of Appeals	[8.0]	[8.3]	[8.3]	[8.4]	[8.5]	[8.5]
—Guard. ad Litem Program	0.0	0.0	0.0	0.0	[1.5]	0.0 [h]
—Superior Court	[66.1]	[80.1]	[80.1]	[80.1]	[81.3]	[81.3]
—Court system:	[31.6]	[38.9]	[38.9]	[40.4]	[39.7]	[40.4]
—Capital improvements	[6.5]	[31.6]	[31.6]	[31.7]	[42.2]	[31.7]
—Integrated justice info. system	0.0	0.0	0.0	[1.5]	[1.5]	[1.5]
—Family Court	24.02	0.0	0.0	0.0	0.0	0.0
—Superior Court	[23.3]	0.0	0.0	0.0	0.0	0.0
—Mayor	[0.7]	0.0	0.0	0.0	0.0	0.0
—Child and Family Service Agency	[0.5]	0.0	[1.1]	0.0	0.0	0.0
Defender Services	34.3	32.0	32.0	32.0	34.0	33.5
—guardian ad litem to abused and neglected children	0.0	0.0	0.0	0.0	0.0	[1.5]
Court Services and Offender Supervision Agency for the District of Columbia[b]	147.3f	161.9	161.9	154.7	154.7	154.7
—Community Supervision and Sex Offender Registry	[94.1]	[100.6]	[100.6]	[95.7]	[95.7]	[95.7]
—Public Defender Service	[20.8]	[23.9]	[23.9]	[23.1]	[23.1]	[23.1]
—Pretrial Service Agency	[32.4]	[37.3]	[37.3]	[36.0]	[36.0]	[36.0]
Court Appointed Special Advocate	0.25	0.0	0.0	0.0	0.0	0.0
Corrections Trustee for Operations	30.2	0.0	0.0	0.0	0.0	0.0
—Case processing	[1.0]	0.0	0.0	0.0	0.0	0.0
—Lorton sewage treatment plant closing	[1.5]	0.0	0.0	0.0	0.0	0.0
—Lorton Building renovations	[0.5]	0.0	0.0	0.0	0.0	0.0
Public Works Transportation. Management System Initiatives	—	1.0	1.0	1.0	1.0	1.0

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
CFO	8.3	0.0	0.0	23.4	15.0	40.3
—Amer. Univ. Women & Politics Institute	0.0	0.0	0.0	0.0	0.0	[0.05]
—Project Reality	0.0	0.0	0.0	0.1	0.0	[0.1]
—Friends of Ft. Dupont	0.0	0.0	0.0	0.1	0.0	[0.1]
—Congressional Cemetery	0.0	0.0	0.0	0.1	0.0	[0.1]
—Cap. Children's Museum	0.0	0.0	0.0	0.0	0.0	[0.15]
—KidBiz 3000	0.0	0.0	0.0	0.0	0.0	[0.15]
—Nat. Maritime Heritage	0.0	0.0	0.0	0.0	0.0	[0.2]
—Voyager Expanded Learning Literacy	0.0	0.0	0.0	[0.25]	0.0	[2.0]
—Best Friends Foundation	0.0	0.0	0.0	[0.25]	0.0	[0.25]
—National Music Center and Museum Foundation	0.0	0.0	0.0	[0.25]	0.0	[0.25]
—National Council of Negro Women	0.0	0.0	0.0	[0.25]	0.0	[0.25]
—Wash. Opera Edu.	0.0	0.0	0.0	0.0	0.0	[0.25]
—Wash. Lab School	0.0	0.0	0.0	0.0	0.0	[0.25]
—Cong. Glaucoma Caucus	0.0	0.0	0.0	0.0	0.0	[0.25]
—Perry School Community Service Center	0.0	0.0	0.0	0.0	0.0	[0.25]
—Safe Kids Coalition	0.0	0.0	0.0	0.0	0.0	[0.27]]
—International Youth Service and Dev. Corps.	0.0	0.0	0.0	[0.3]	0.0	[0.3]
—Public Access Channel Future Producers Program	0.0	0.0	0.0	[0.3}	0.0	[0.3]
—Criminal Justice Coordinating Council	0.0	0.0	0.0	[0.3]	0.0	[0.3]
—Tech. Innovation and Learning Lab	0.0	0.0	0.0	0.0	0.0	[0.3]
—Close Up Foundation	0.0	0.0	0.0	0.0	0.0	[0.4]
—Values First training	[0.25]	0.0	0.0	[0.25]	0.0	[0.25]
—Excel Institute & National Center for Manufacturing Sciences Job Training	0.0	0.0	0.0	[0.35]	0.0	[0.35]
—Excel Institute Adult Education Program	[1.0]	0.0	0.0	[0.4]	0.0	[0.4]
—Excel Institute for operational expenses	0.0	0.0	0.0	[1.0]	0.0	[1.25]
—City Museum	[0.5]	0.0	0.0	[0.5]	0.0	[0.5]
—Teach for America	[0.2]	0.0	0.0	0.0	0.0	[0.4]
—National Negro College Fund	0.0	0.0	0.0	[0.5]	0.0	[0.5]
—Amer. Cities Foundation education clearinghouse	0.0	0.0	0.0	0.0	0.0	[0.5]

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
—Emergency Management, Inc. evacuation planning	0.0	0.0	0.0	[0.5]	0.0	[0.5]
—G. Washington Univ. Risk management and Univ of New Orleans Hazards Assessment	0.0	0.0	0.0	[0.5}	0.0	[0.5]
—Capitol City Career Development and Job Training	0.5	0.0	0.0	[0.5][g]	0.0	[0.5]
—Washington Center for Best Practice College Awareness Program	0.0	0.0	0.0	[0.5]	0.0	[0.5]
—Caribbean Amer. Mission for Edu. Research	0.0	0.0	0.0	[0.5]	0.0	[0.5]
—Comm. Youth Connection	0.0	0.0	0.0	0.0	0.0	[0.5]
—Wash. CoG Housing Trust Fund	0.0	0.0	0.0	0.0	0.0	[0.5]
—Eisenhower Foundation Carver Terrace Initiative	0.0	0.0	0.0	0.0	0.0	[0.5]
—Good Samaritan Found.	0.0	0.0	0.0	0.0	0.0	[0.5]
—Reach for Tomorrow	0.0	0.0	0.0	0.0	0.0	[0.5]
—Metro Police Secures Program	0.0	0.0	0.0	0.0	0.0	[0.5]
—Institute for Responsible Fatherhood	0.0	0.0	0.0	0.0	0.0	[0.5]
—Second Chance Employ. Service for Women	0.0	0.0	0.0	0.0	0.0	[0.6]
—Real World Schools	[0.25]	0.0	0.0	[1.0]	0.0	[1.0]
—Whitman Walker Clinic	0.0	0.0	0.0	[1.0]	0.0	[1.0]
—Washington CoG Regional Incident Comm and Coordination	0.0	0.0	0.0	[1.0]	0.0	[1.0]
—Council of Court Excellence	0.0	0.0	0.0	[1.0]	0.0	[1.0]
—Green Door (assist residents with mental illness	[1.0]	0.0	0.0	0.0	0.0	[1.0]
—Active Cap River Cleanup	[2.25]	0.0	0.0	0.0	0.0	[1.0]
—Covenant House	0.0	0.0	0.0	0.0	0.0	[1.22]
—Seed Foundation Charter School	0.0	0.0	0.0	0.0	0.0	[2.0]
—National Institute for Manufacturing Sciences for infrastructure vulnerability assessment	0.0	0.0	0.0	[2.0]	0.0	[2.0]
—St. Coletta expansion	2.0	0.0	0.0	[2.0][g]	2.0	[2.0]
—Nat. Hist. Trust Lincoln Cottage Restoration	0.0	0.0	0.0	0.0	0.0	[2.35]
—Canal Park Dev. Assoc.	0.0	0.0	0.0	[2.0]	0.0	[2.5]
—Children's National Medical Center	5.5	0.0	0.0	[5.0][g]	5.0	[5.0]

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
—Kenilworth Park Recreation Facilities	[0.5][f]	0.0	0.0	0.0	8.0	0.0
—One Economy Corp.	[0.6]	0.0	0.0	0.0	0.0	0.0
—Langston Project	[0.5]	0.0	0.0	0.0	0.0	0.0
—Child Passenger Safety	[0.35]	0.0	0.0	0.0	0.0	0.0
— Eastern Market. Renovation Study	[0.05]	0.0	0.0	0.0	0.0	0.0
—Woodlawn Cemetery Restoration	[0.3]	0.0	0.0	0.0	0.0	0.0
—Mentoring and hotline	[0.3]	0.0	0.0	0.0	0.0	0.0
—Character building	[0.25]	0.0	0.0	0.0	0.0	0.0
Potomac Southwest Waterfront	0.0	0.0	0.0	1.0	0.0	2.8
Lorton Asbestos Remediation	0.0	0.0	0.0	1.0	0.0	1.0
Capital Improvements for Fire and Emer. Med. Services Dept.	0.5	0.0	0.0	2.0	0.0	2.0
D.C. Public Schools	2.5	0.0	23.2	14.0	0.0	3.0
—Special Education Satellite Facilities	0.0	0.0	[9.0]	[9.0]	0.0	[3.0]
—Special Education Transportation Services	0.0	0.0	[5.0]	[5.0]	0.0	0.0
—Voyager Expanded Learning Literacy	[2.0]	0.0	0.0	[g]	0.0	[g]
—Failure Free Reading Literacy	[0.25]	0.0	0.0	0.0	0.0	0.0
—Lightspan, Inc., eduTest.com	[0.25]	0.0	0.0	0.0	0.0	0.0
—Office of Early Childhood Education	0.0	0.0	[2.0]	0.0	0.0	0.0
—D.C.Youth Orchestra	0.0	0.0	[0.2]	0.0	0.0	0.0
—Y Care Program	0.0	0.0	[2.0]	0.0	0.0	0.0
—Credit Enhancement Revolving Fund	0.0	0.0	[5.0]	0.0 [j]	0.0	0.0 [j]
D.C. Public Charter School Fac.	0.0	0.0	0.0	16.0	20.0	17.0
—pupil allocation supplement	0.0	0.0	0.0	0.0	0.0	[4.0]
—charter school improvements loan fund	0.0	0.0	0.0	0.0	0.0	[5.0]
—credit enhancement revolving fund	0.0	0.0	0.0[k]	[16.0]	0.0	[8.0]
Child and Family Services	0.0	0.0	10.0	0.0	0.0	0.0
—Family Literacy Program	0.0	0.0	[5.0]	5.0	4.0	4.0
—Incentives for the adoption of children in foster care	5.0	0.0	[5.0]	0.0	0.0	0.0
—Adoption	[2.0]	0.0	0.0	0.0	0.0	0.0
—Scholarship	[1.0]	0.0	0.0	0.0	0.0	0.0
—Resource Center	[1.0]	0.0	0.0	0.0	0.0	0.0
—Incentives for Special Needs Children	[1.0]	0.0	0.0	0.0	0.0	0.0

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
Federal Water and Sewer Authority Payment	0.0	0.0	50.0	50.0	50.0	50.0
Anacostia Waterfront Initiative	0.0	0.0	0.0	0.0	5.0	5.0
Capital Infrastructure Develop.	0.0	0.0	96.0	24.3	15.1	10.15
—Eastern Mkt. Renov.	[0.05[c]]	0.0	[0.15]	[0.15]	[0.1]	[0.15]
—Unified Comm. Center. for Regional Emergencies and other activities	0.0	0.0	[22.0]	[19.1]	[10.0]	[10.0]
—Downtown Circulator	0.0	0.0	[15.0]	0.0	0.0	0.0
—Waterside Mall Street Extension	0.0	0.0	[7.0]	0.0	0.0	0.0
—McKinley Tech. Ctr.	0.0[d]	0.0	[7.0]	0.0	0.0	0.0
—Kenilworth Parkside Athletic Complex	note	0.0	[15.0]	0.0	0.0	0.0
—Crime lab/public health lab./ morgue	0.0	0.0	[30.0]	[5.0]	[5.0[e]]	0.0
Technology Development	—	0.0	6.7	0.0	0.0	0.0
—Info. and Compliance Clearinghouse	—	0.0	[3.2]	0.0	0.0	0.0
—E-Filing and Tax Payment System	—	0.0	[3.7]	0.0	0.0	0.0
WMATA Metro Rehab.	—	0.0	21.6	0.0	0.0	0.0
Capitol Education Fund	0.5	0.0	0.0	0.0	0.0	0.0
Metro. Kappa Youth Development Foundation	0.45	0.0	0.0	0.0	0.0	0.0
Chief Medical Examiner	0.585	0.0	0.0	0.0	0.0	0.0
Youth Life Foundation	0.25	0.0	0.0	0.0	0.0	0.0
Food for Friends Program	2.0	0.0	0.0	0.0	0.0	0.0
City Administrator	0.3	0.0	0.0	0.0	0.0	0.0
Chief Technology Officer	0.0	0.0	0.0	0.0	0.0	0.0
Southeastern Univ./ McKinley Tech Partnership	0.5	0.0	0.0	0.0	0.0	0.0
Thurgood Marshall Academy Charter School	1.0	0.0	0.0	0.0	0.0	0.0
G. Washington University Center for Excellence in Municipal Management	0.25	0.0	0.0	0.0	0.0	0.0
Law Enforcement Mobile Wireless Interoperational	1.4	0.0	0.0	0.0	0.0	0.0
—CTO	[0.4]	0.0	0.0	0.0	0.0	0.0
—U.S. Secret Service	[0.33]	0.0	0.0	0.0	0.0	0.0
—U.S. Capitol Police	[0.33]	0.0	0.0	0.0	0.0	0.0
—U.S. Park Police	[0.33]	0.0	0.0	0.0	0.0	0.0
Faith and Politics Institute	0.05	0.0	0.0	0.0	0.0	0.0
Poplar Point Brownfield Remediation	3.5	0.0	0.0	0.0	0.0	0.0

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
—Environmental assessment	[2.15]	0.0	0.0	0.0	0.0	0.0
—Anacostia Park entrance	[1.3]	0.0	0.0	0.0	0.0	0.0
Enforcement of law banning tobacco possession by minors	0.1	0.0	0.0	0.0	0.0	0.0
Total federal payments	407.9	378.7	592.4	517.0	517. 0	512.0

a. In previous years, funds would be provided as part of District of Columbia court operations. Congress created a separate appropriation to ensure payment of attorneys representing indigent persons, guardianship, and abused and neglected children in court proceedings.

b. Certified as a federal agency on August 14, 2000.

c. In FY2002 funds awarded under separate heading to the CFO for a feasibility study of Eastern Market renovation.

d. FY2002 appropriations included $0.5 million for Southeastern University and McKinley Technology Center funding.

e. $5 million would be made available in FY2003 to fund the crime lab activities only.

Allows courts to reallocate not more than $1 million among activities funded under this heading.

f. $0.5 million was appropriated to CFO in FY2002 for soccer facilities at Kenilworth Park.

g. Funds administered under the CFO account.

h. Activity funded under Defender Services account.

i. Includes $16.4 million in unobligated balances from previous year.

j. Funded under separate account for public charter schools.

k. Funded as an set aside under public school account

House Version of H.J.Res. 2 (formerly H.R. 5521)

On January 8, 2003, the House approved a joint resolution, H.J.Res. 2, extending P.L. 107-229, through January 31, 2003. P.L. 107-229, a continuing budget resolution, froze appropriations for 11 appropriations bills for FY2003 at their FY2002 budget levels. H.J.Res. 2, was intended to serve as a vehicle for completing final funding decisions on the 11 remaining regular appropriations bills, including the District of Columbia. Section 7 of H.J.Res. 2, as approved by the House on January 8, 2003, would have allowed the District to spend $5.8 billion in locally raised funds for operating expenses in accordance with the city's revised financial plan and budget for FY2003. Although city officials expressed support for the House provision that would have released that portion of the District of Columbia budget financed with locally raised funds, the District's Delegate to Congress contended that the delay in approving the city's budget argued for increased budget autonomy for the city in spending its own locally raised funds.

During the 107th Congress, the House Appropriations Committee reported out its version of the District of Columbia Appropriations Act for FY2003, H.R. 5521, on October 2, 2002, several days after the District submitted a revised budget for FY2003. The House bill included $517 million in special federal payments for the District of Columbia. Like its Senate counterpart, the bill included $17 million for a college tuition assistance plan, $15 million for security planning, and $154 million for court services and offender supervision. The House bill included $14 million in special federal payments to the D.C. public schools and $24 million for capital infrastructure projects. The District requested $96 million for such activities.

FY2003 General Provisions, House Bill

The House Appropriations Committee included a provision that would have removed the prohibition on the use of District funds for costs associated with implementing the District's Health Care Benefits Expansion Act of 1992. The provision was also included in the Senate version of the bill. Like its Senate counterpart, the House bill retained a number of provisions that District officials wanted to eliminate or modify, including those related to medical marijuana, abortion, and needle exchange programs.

Senate Version of H. J. Res. 2 (formerly S. 2809)

On January 23, 2003 the Senate passed its version of H. J. Res. 2, an omnibus appropriations measure that included the full-text of each of the outstanding regular appropriations bills, as amended. The Senate bill included $512 million in special federal payments and earmarks for the District of Columbia to address the differences in House and Senate general provisions included in the District Appropriations Act.

On July 26, 2002, the Senate Appropriations Committee reported S. 2809, the District of Columbia Appropriations Act for FY2003. The bill included $517 million in special federal payments and contributions to the District. The majority of the funds were slated to be used for courts, defender services, and offender supervision-related activities. The Senate Appropriations Committee also included $15 million for emergency planning and response activities, and an additional $15 million for capital infrastructure projects that support the creation of a unified communications center to serve all D.C. first responders ($10 million) and a state-of- the-art forensic laboratory ($5 million). The Committee also included $58 million for the Anacostia Waterfront Initiative. Of this amount $5 million would be used to develop parks and recreational facilities at Kenilworth Park and $50 million would be used to design and rebuild the water and sewer system that serves the nation's capital. These funds were to be matched by local funds. The House bill did not include funding for the initiative.

FY2003 General Provisions, Senate Bill

During its consideration of the bill, the Senate Appropriations Committee included a provision that would remove the prohibition on the use of District funds for costs associated with implementing the District's Health Care Benefits Expansion Act of 1992. The act allows a District employee to include a cohabitating, but unrelated, person on the employee's health insurance plan. The act also allows unrelated heterosexual and homosexual couples to register as domestic partners. The Committee also would have reduced the number of general provisions included in the bill to 36 from the 41 included in the FY2002 Appropriations Act. It retained a number of provisions that District officials wanted eliminated or modified, including those related to medical marijuana, abortion, and needle exchange programs.

Conference Version of H. J. Res. 2, P.L. 108-7

The 107th Congress adjourned without the House or Senate passing their respective versions of the District of Columbia Appropriations Act for FY2003 (H.R. 5521 or S. 2809). The 108th Congress considered the FY2003 appropriations for the District of Columbia as a part of an omnibus appropriations bill (H.J.Res. 2). The House originally introduced H. J.Res. 2, on January 8, 2003, as a continuing budget resolution providing temporary funding for programs funded under 11 appropriations bills, including the District of Columbia Appropriations for FY2003, considered, but not passed, during the 107th Congress. The Senate amended and passed its version of H. J. Res. 2, on January 23, 2003.

P.L. 108-7, Special Federal Payments and Contributions

The conference version of H.J.Res. 2, was approved by the House and Senate on February 13, 2002. The Act, which was signed by the President on February 20, 2003, appropriates $512 million in special federal payments and contributions to the District of Columbia and associated public and private entities. The Act includes:

- $162 million for the operation of the District of Columbia Court system;
- $155 million for court services and offender supervision activities;
- $50 million federal payment to the Washington Water and Sewer Authority;
- $33 million for defender services;
- $30 million for security and emergency preparedness and response activities, including $15 million for security planning activities;
- $20 million for public education, including $3 million in support of special education, and $17 million for the District's public charter schools; and
- $17 million for college tuition assistance plan.

The Act also includes $40 million allocated to the CFO and earmarked for 56 public and private entities for specific projects and activities.

P.L. 108-7, General Provisions

The Act, as passed by Congress, includes several provisions which city leaders sought to have removed or modified characterizing the provisions as intrusive and anti-home rule. The Act prohibits the use of the use of federal and District funds for:

- lobbying for District statehood or voting representation in Congress;
- abortion services, except in the case of rape or incest;
- a needle or syringe exchange program intended to reduce the spread of AIDS/HIV; or
- legalize marijuana or the implementation of a medical marijuana initiative.

The Act allows the District to continue to use local funds to implement the 1992 Health Care Benefits Expansion Act, which extends medical, employment, and government benefits to unmarried couples, including homosexuals. The Act includes several provisions aimed at addressing public education issues in the District of Columbia. In addition to appropriating a combined $20 million in special federal contributions to the District of Columbia Public School System ($3) and public charter schools ($17 million), the Act includes language authorizing the establishment of the Office of Public Charter School Financing and Support and the a new Charter School Fund. The Act also establishes a $4,000 ceiling payable to attorneys involved legal actions brought against the District of Columbia Public Schools under the Individuals with Disabilities Educations Act (20 U.S.C. 1400 et seq.). For additional background on these and other key policy issues, please see Key Policy Issues section of this report.

Table 3. District of Columbia General Funds

(in millions of dollars)

Programs	Enacted FY2002	FY2003				
		District		House	Senate	Conf.
		Initial	Amended			
Division of Expenses: District of Columbia Funds						
GENERAL FUND						
Governmental Direction and Support	322.714	280.138	*262.310*	303.586	295.136	307.173
Economic Development and Regulation	231.895	267.532	*244.360*	258.539	258.539	244.358
Public Safety and Justice	637.993	639.895	*617.584*	639.892	639.892	622.531
Public Education System	1,152.014	1,200.200	*1,159.988*	1,257.201	1,220.201	1,206.169
Human Support Services	1,816.470	2,527.766	*2,439.018*	2,474.297	2,500.297	2,451.818
Public Works	314.093	324.828	*319.782*	324.828	324.828	320.357
Receivership Programs	416.460	0.0	0.0	0.0	0.0	0.0
Workforce Investments	42.896	54.186	48.186	54.186	54.186	48.186
Reserve Fund	120.000	70.000	70.000	70.0	70.000	70.000
Emer. and Contingency Reserve Fund	30.0	0.0	0.0	0.0	0.0	0.0
Emergency Planning and Security Costs	16.058	15.000	15.000	15.000	15.000	15.000
Repayment of Loans and Interest	247.902	267.451	260.951	267.451	267.451	260.951
Repayment Gen. Fund Recovery Debt	39.300	39.300	39.300	39.300	39.300	39.300
Pay Interest on Short Term Borrowing	0.500	1.000	1.000	1.000	1.000	1.000
Wilson Building	8.859	4.194	4.194	4.194	4.194	4.194
Tobacco Settlement Trust Fund Transfer	33.254	50.867	49.867	10.000	10.000	49.867
One Judiciary Square Certificate of Participation	0.0	7.950	7.950	7.950	7.950	7.950
Non-departmental Agency	5.799	5.799	5.799	5.799	5.799	5.799
Pay-As-You-Go Capital	0.0	16.750	0.0	16.750	16.750	
Settlements and Judgements	0.0	22.822	22.822	22.822	0.0	22.822
Capital Infrastructure Investment	0.0	0.0	0.0	0.0	15.100	0.0
General Fund Total Operating Expenses	**5,436.207**	**5,795.678**	**5,568.111**	**5,772.795**	**5,768.445**	**5,632.608**
Enterprise Funds						

Programs	Enacted FY2002	FY2003				
		District		House	Senate	Conf.
		Initial	Amended			
Water and Sewer Authority	244.978	253.743	253.743	253.743	253.743	253.743
Washington Aqueduct	46.510	57.847	57.847	57.847	57.847	57.847
Stormwater Permit Compliance	2.151	3.100	3.100	3.100	3.100	3.100
Lottery and Charitable Games	229.688	232.881	232.881	232.881	232.881	232.881
Sports and Enter. Commission	9.627	15.510	15.510	15.510	23.510	15.510
DC Retirement Board	13.388	13.388	13.388	13.388	13.388	13.388
Convention Center Enterprise Fund	57.278	78.700	78.700	78.700	78.700	78.700
Housing Finance Agency	4.711	0.0	0.0	0.0	0.0	0.0
National Capital Revitalization Corporation	2.673	4.908	4.908	6.745	6.745	6.745
Total Enterprise Funds	**611.953**	**660.077**	**660.077**	**661.914**	**661.914**	**661.194**
Total Operating Expenses	**6,048.160**	**6,455.755**	**6,228.188**	**6,434.709**	**6,438.359**	**6,294.522**
Capital Outlay						
General Fund	1,074.604	504.047	504.047	666.368	639.070	671.020
Water and Sewer Fund	152.114	292.458	392.458	342.458	342.458	
Total Capital Outlays	**1,226.718**	**796.505**	**896.505**	**1,008.826**	**981.528**	**671.020**
Total District of Columbia Funds	**7,274.878**	**7,252.260**	**7,124.693**	**7,443.535**	**7,419.887**	**6,965.542**

Key Policy Issues

Budget Shortfall

According to the city's CFO, the District faced a projected FY2003 budget deficit of $323 million. This revenue shortfall can, in part, be attributable to the residual effects of the attacks of September 11, 2001, which reduced tourism, convention, and business travel income. Other factors such as a slowing economy, lower returns on investments, and overspending in such areas as public education also have contributed to the looming deficit. With a deadline of October 1, 2002, the start of the 2003 fiscal year, city leaders, in order to avoid congressional intervention or the possible resurrection of the control board, developed an acceptable plan that may close the revenue and expenditure gap.

City officials considered several options aimed at addressing the projected $323 million deficit. The mayor and city council considered action that would:

- reduce expenditures;
- increase taxes and fees;

- access the reserve fund; or
- any combination of the three.

If city leaders had been unable to fashion a plan, the city faced the possibility that Congress would have intervened and made the cuts. According to press reports at the time, the most likely plan included significant cuts in the 10 agencies with the largest budgets including education, health, and human services.[7] Cuts in these areas would affect children and the poor. It could have also involved a significant reduction in the city's work force and the deferring of employee wage increases, planned capital expenditures or program increases. The city leadership asked unions representing city employees to temporarily put off raises built into their contracts for FY2003, which began October 1, 2002. The raises average about 4% with police raises at 5%. According to estimates by the Williams administration, if the unions agreed to a 4-month delay, for instance, it could save the city $8 million to $10 million.[8]

If the city had chosen tax and fee increases, the mostly likely targets were increases on alcohol, hotel, and tobacco. According to Jack Evans, chair of the city council's Finance and Revenue Committee, increases in general sales or property taxes could prove politically unpopular, since city residents are among the most heavily taxed in the nation.[9] The city also considered rolling back planned income tax relief.

Another option considered was the use of the city reserve funds. It should be noted that the District of Columbia Appropriations Act of 2002, P.L. 107-96 and the D.C. Code (§1-204.50a) require the District, when using reserve funds to close a budget gap in a given fiscal year, to replenish the fund the following fiscal year. Currently, the city's CFO projects annual budget deficits for the next 4 years that may reach as much as $351 million in FY2006.[10]

Emergency Preparedness and Homeland Security

In addition to the $15 million earmarked for emergency planning and security, the city's budget includes additional emergency planning and homeland security related funding. Specially, the city requested $22 million for a unified communications system for regional emergencies. The House bill includes $39.6 million, including $19 million for a unified regional emergency communications center.

[7] David Nakamura, *"D.C. Targets Schools To Eliminate Deficit: Tax Increases, Program Cuts Weighed,"* Washington Post, Sept. 14, 2002, p. B1.

[8] David Fahrenthold, "*D.C. Suggests Delaying Pay Raises*," Washington Post, September 20, 2002, p. B5.

[9] Craig Timberg. "*D.C. Must Fix $323 Million Deficit by Oct.* 1.," Washington Post. September 18, 2002, p. B3.

[10] Government of the District of Columbia, Office of the Chief Financial Officer. *Revised Revenue Estimates for FY2003-FY2006.* (Washington: September 17, 2002), p. 1. Available online at: http://cfo.dc.gov/news/2002/September/rev_est_analysis091702.shtm, visited September 19, 2002.

Table 4. Emergency Preparedness and Security Funding

Programs	Enacted FY2002	FY2003				
		Admin.	City's Budget	House	Senate	Conf.
Emergency Planning and Security	16.06	15.0	15.0	15.0	15.0	15.0
Unified Communications Center for Regional Emer. and Other Activities	0.0	0.0	22.0	19.1	10.0	10.0
Emergency Management, Inc. Evacuation Planning	0.0	0.0	0.0	0.5	0.0	0.5
George Washington Univ. Risk Management and Univ. of New Orleans Hazards Assessment	0.0	0.0	0.0	0.5	0.0	0.5
National Institute for Manuf. Sciences Infrastructure Vulnerability Assessment	0.0	0.0	0.0	2.0	0.0	2.0
Capital Improvements for Fire and Emer. Medical Services	0.5	0.0	0.0	2.0	0.0	2.0
Metro. Wash. CoG Regional Incident Communication and Coordination	0.0	0.0	0.0	1.0	0.0	1.0
Total	16.56	15.0	37.0	40.1	25.0	31.0

Needle Exchange

Whether to continue a needle exchange program funded with federal or District funds is one of several key policy issues that Congress considered when reviewing the District's appropriations for FY2003. The controversy surrounding funding a needle exchange program touches on issues of home rule, public health policy, and government sanctioning and facilitating the use of illegal drugs. Proponents of a needle exchange program contend that such programs reduce the spread of HIV among illegal drug users by reducing the incidence of shared needles. Opponents of these efforts contend that such programs amount to government sanctioning of illegal drugs by supplying drug-addicted persons with the tools to use them. In addition, they contend that public health concerns raised about the spread of AIDS and HIV through shared contaminated needles should be addressed through drug treatment and rehabilitation programs. Another view in the debate focused on the issue of home rule and the city's ability to use local funds to institute such programs free from congressional actions.

The prohibition on the use of federal and District funds for a needle exchange program was first approved by Congress as Section 170 of the District of Columbia Appropriations Act for FY1999, P.L. 105-277. The 1999 Act did allow private funding of needle exchange programs. The District of Columbia Appropriations Act for FY2001, P.L. 106-522, continued the prohibition on the use of federal and District funds for a needle exchange program, and restricted where privately funded needle exchange activities could take place. Section 150 of the District of Columbia Appropriations Act for FY2001 made it unlawful to distribute any needle or syringe for the hypodermic injection of any illegal drug in any area in the city that is within 1,000 feet of a public elementary or secondary school, including any public charter school. The provision was deleted during congressional consideration and passage of the District of Columbia Appropriations Act of FY2002, P.L. 107-96. The act also included a provision that allows the use of private funds for a needle exchange program, but prohibits the use of both District and federal funds for such activities. Presently, only one entity, Prevention Works, a private nonprofit AIDS awareness and education program, operates a privately funded needle exchange program. The FY2002 District

of Columbia Appropriations Act requires such entities to track and account for the use of public and private funds.

District officials were seeking to lift the prohibition on the use of District funds for needle exchange programs. However, P.L. 108-7, prohibits the use of both District and federal funds for needle exchange programs. The Act allows the use of private funds for needle exchange programs and requires private and public entities account for these funds separately. The Senate version of the District's Appropriations Act, S. 2809, would have allowed the use of local government funds for needle exchange programs, but would have maintained the prohibition on the use of federal funds. Like the final conference provision, the House bill, H.R. 5521, prohibited the use of both District and federal funds for a needle exchange program.

Medical Marijuana

The medical marijuana initiative provision in the District of Columbia appropriations legislation is another issue that engenders controversy. The District of Columbia Appropriations Act for FY1999, P.L. 105-277, included a provision that prohibited the city from counting ballots of a voter-approved initiative that would have allowed the medical use of marijuana to assist persons suffering debilitating health conditions and diseases including cancer and HIV infection.

Congress's power to prohibit the counting of a medical marijuana ballot initiative was challenged in a suit filed by the D.C. Chapter of the American Civil Liberties Union (ACLU). On September 17, 1999, District Court Judge Richard Roberts ruled that Congress, despite its unique legislative responsibility for the District under Article I, Section 8 of the Constitution, did not possess the power to stifle or prevent political speech, which included the ballot initiative.[11] This ruling allowed the city to tally the votes on the November 1998 ballot initiative. To prevent the implementation of the initiative, Congress had 30 days to pass a resolution of disapproval from the date the medical marijuana ballot initiative (Initiative 59) was certified by the Board of Elections and Ethics. Language prohibiting the implementation of the initiative was included in P.L. 106-113, the District of Columbia Appropriations Act for FY2000. Opponents of the provision contend that it and similar actions undercut the concept of home rule.

The District of Columbia Appropriations Act for FY2002, P.L. 107-96, includes a provision that continues to prohibit the District government from implementing the initiative. Congress' power to block the implementation of the initiative was again challenged in the courts. On December 18, 2001, two groups, the Marijuana Policy Project and Medical Marijuana Initiative Committee, filed suit in U.S. District Court, seeking injunctive relief in an effort to put a medical marijuana initiative on the November 2002 ballot. The District's Board of Elections and Ethics ruled that a congressional rider that has been included in the general provisions of each District appropriation act since 1998 prohibits it from using public funds to do preliminary work that would put the initiative on the ballot.

On March 28, 2002, a U.S. District Court judge ruled that the congressional ban on the use of public funds to put such a ballot initiative before the voters was unconstitutional.[12] The judge stated that the effect of the amendment was to restrict the plaintiff's First Amendment rights to engage in political speech. The decision was appealed by the Justice Department and on September 19, 2002, the U.S. Court of Appeals for the District of Columbia Circuit reversed the

[11] Turner v. District of Columbia Board of Elections and Ethics. No. 98-2634 Civ. (D.D.C. Sept. 17, 1999)(memorandum opinion).

[12] Marijuana Policy Project v. District of Columbia Board of Elections and Ethics. No. 01-2595 Civ. (D.D.C. Mar. 28, 2002)(memorandum opinion, order and judgement). The District Court's ruling was reversed on appeal by the United States Court of Appeals District of Columbia Circuit. The Court ruled without comment.

ruling of the lower court without comment. The three-judge Appeals Court panel stated its decision would be fully explained in an opinion to be issued at a later date. The Appeals Court noted that it issued its ruling on September 19, 2002, because that was the deadline for printing ballots of the November general election.

Consistent with provisions included in H.R. 5521 and S. 2809, P.L. 108-7 includes a provision that continues the prohibition against the implementation of the medical marijuana ballot initiative.

Abortion Provision

The public funding of abortion services for District of Columbia residents is a perennial issue debated by Congress during its annual deliberations on District of Columbia appropriations. District officials cite the prohibition on the use of District funds as another example of congressional intrusion into local matters. The District of Columbia Appropriations Act for FY2002, P.L. 107-96, included a provision prohibiting the use of federal or District funds for abortion services, except in cases where the life of the mother is endangered or the pregnancy is the result of rape or incest. This prohibition has been in place since 1995, when Congress approved the District of Columbia Appropriations Act for FY1996, P.L. 104-134.

Since 1979, with the passage of the District of Columbia Appropriations Act of 1980, P.L. 96-93, Congress has placed some limitation or prohibition on the use of public funds for abortion services for District residents. From 1979 to 1988, Congress restricted the use of federal funds for abortion services to cases where the mother's life would be endangered or the pregnancy resulted from rape and incest. The District was free to use District funds for abortion services.

When Congress passed the District of Columbia Appropriations Act for FY1989, P.L. 100-462, it restricted the use of *District* and *federal* funds for abortion services to cases where the mother's life would be endangered if the pregnancy was taken to term. The inclusion of District funds, and the elimination of rape or incest as qualifying conditions for public funding of abortion services, was endorsed by President Reagan, who threatened to veto the District's appropriations act if the abortion provision was not modified.[13] In 1989, President Bush twice vetoed the District's FY1990 appropriations act over the abortion issue. He signed P.L. 101-168 after insisting that Congress include language prohibiting the use of District revenues to pay for abortion services except in cases where the mother's life was endangered.[14]

The District successfully fought for the removal of the provision limiting District funding of abortion services when Congress considered and passed the District of Columbia Appropriations Act for FY1994, P.L. 103-127. The FY1994 Act also reinstated rape and incest as qualifying circumstances allowing for the public funding of abortion services. The District's success was short lived. The District of Columbia Appropriations Act for FY1996, P.L. 104-134, and subsequent District of Columbia appropriations acts, limited the use of *District* and *federal* funds for abortion services to cases where the mother's life is endangered or cases where the pregnancy was the result of rape or incest.

P.L. 108-7, continues the restrict on the use of District and federal funds for abortion services except in cases of rape or incest, or the life of the mother is endangered. This is consistent with

[13] Congressional Quarterly, Inc., *District Policies Hit Hard in Spending Bill*, Congressional Quarterly Almanac, vol. XLIV, 1988, p. 713.

[14] Congressional Quarterly, Inc., *D.C. Bill Vetoed Twice Over Abortion Funding*, Congressional Quarterly Almanac, vol. XLV, 1989, p. 757.

provisions included in the House and Senate versions of the District of Columbia Appropriations Act for FY2003.

Health Care Benefits Expansion Act (Domestic Partners Program)

P.L. 107-96 includes a provision lifting the congressional prohibition on the use of District funds to implement its Health Care Benefits Expansion Act.[15] The provision permits unmarried heterosexual and homosexual couples to register as domestic partners. Under the Health Care Benefits Expansion Act, which was approved by the city's elected leadership in 1992, an unmarried person who registers as a domestic partner of a District employee hired after 1987 may be added to the District employee's health care policy for an additional charge. The Act had not been implemented until 2002 because of a congressional prohibition first included in the general provisions of District of Columbia Appropriations Act for FY1994.

The city's Health Care Benefits Expansion Act allows two unmarried and unrelated individuals to register as domestic partners with the District for the purpose of securing certain health and family related benefits, including hospital visitation rights. Under the law, District government employees enrolled in the District of Columbia Employees Health Benefits Program are allowed to purchase family health insurance coverage that would cover the employee's family members, including domestic partners. In addition, a District employee registered as a domestic partner may assume the additional cost of the family health insurance coverage for family members, which would include the employee's domestic partner.

Opponents of the Act believe that it is an assault on the institution of marriage, and that the Act grants unmarried gay and heterosexual couples the same standing as married couples. Congressional proponents of lifting the ban on the use of District funds argue that the implementation of the Act is a question of home rule and local autonomy. Supporters of the amendment noted that at least nine states, 136 local governments, and more than 4,000 companies offer benefits to domestic partners.[16]

P.L. 108-07, consistent with the provision included in the District's FY2002 Appropriations Act, includes a general provision that allows the use of District funds to administer the program during FY2003.

[15] On September 20, 2001, the House Appropriations Committee approved, by a vote of 28 to 21, an amendment introduced by Representatives Kolbe and Moran, that removed the congressional prohibition on the use of District funds for the implementation of the city's Health Care Benefits Expansion Act. The Act, which was approved by the city's elected leadership in 1992, had not been implemented because of a congressional prohibition first included in the general provisions of District of Columbia Appropriations Act for FY1994. On September 25, 2001, during House consideration of H.R. 2944, the House version of the District of Columbia Appropriations Act for FY2002, Representative Dave Weldon offered an amendment (H.Amdt. 310) that would have reaffirmed the ban on the use of District funds to implement the health care expansion program. The Weldon amendment failed by a vote of 194 to 226. The Senate bill also included a provision that would have allowed the District to use city, but not federal, funds to implement the District of Columbia Employees Health Benefits Program. It had not been implemented because of a congressional prohibition first included in the general provisions of District of Columbia Appropriations Act for FY1994. The District began implementation of the health care benefits expansion program on July 8, 2002.

[16] Human Rights Campaign Foundation. Frequently Ask Questions on Domestic Partners Benefits: Employers that Offer Domestic Partners Benefits, http://www.hrc.org/worknet/dp/index.asp, visited September 25, 2002.

Public Education

In passing the District of Columbia Appropriations Act for FY2003, Congress included additional funds and authority to address issues related to special education and public charter schools.

Special Education

The District's special education program has long been characterized as ineffective and inefficient. The system has been plagued by problems in transporting students to special education facilities and in the timely evaluation of students who may have special needs. Delays in the period between the time a student is referred and assessed increases the number of students placed in private educational institutions, which adds to the cost of special education. Concern about the cost of these delays prompted Congress to include a provision in the District of Columbia Appropriations Act for FY1999 that extends the time period between referral and assessment of a student with special education needs, as defined by the Individuals with Disabilities Education Act (IDEA)[17] or the Rehabilitation Education Act,[18] from 50 days to 120 days.[19] P.L. 108-7 does not include the 120-day special education evaluation and placement time period included in previous appropriations acts.

In addition, the 1999 Appropriations Act for the District of Columbia limited the amount of compensation payable to attorneys representing disabled students who prevailed in an action brought against the District of Columbia Public Schools (DCPS) under the IDEA. Subsequent Appropriations Acts for FY2000 and FY2001, also limited the amount of funds payable to attorneys successfully representing students seeking special education services. The FY1999 Act limited attorneys' fees to an hourly rate of $50 and a case ceiling of $1,300; the FY2000 limit was $60 per hour and a case ceiling of $1,560; and the FY2001 rate was $125 per hour with a case ceiling of $2,500.

The District's FY2002 Appropriations Act lifted the ceiling, in part, in response to the argument that the ceiling placed a hardship on households with limited financial resources. District officials countered that the payment of attorney's fees diverted significant funds from the provision of special education services, but were unable to quantify the amount. As a consequence the FY2002 Appropriations directed the superintendent of the DCPS to provide an itemized list of attorney's fees awarded plaintiffs who had prevailed in cases brought under the IDEA.[20] The Act also directed the General Accounting Office to report to the House and Senate Appropriations Committees on attorneys' fees awarded to prevailing plaintiffs seeking remedy under the IDEA in excess of the payment ceiling established in the Appropriations Acts for FY1999, FY2000, and FY2001.[21] Copies of the GAO reports cited above may be obtained at the GAO website.[22]

Section 144 of the District of Columbia Appropriations Act for FY2003, limits to $4,000, the amount of appropriated funds that may be used to pay attorneys fees for actions brought against

[17] 20 U.S.C. 1401(a)(1)

[18] (29 USC 706(8))

[19] P.L. 105-277, Section 141.

[20] P.L. 107-96, Section 140(b).

[21] P.L. 107-96, Section 141.

[22] U.S. General Accounting Office, *DCPS: Limitation of Attorneys' Fees for Fiscal Years 1999 through 2001,* GAO report 03-224R (Washington, Nov. 6, 2002); and U.S. General Accounting Office *DCPS: Attorneys Fees for Access to Special Education Opportunities*, GAO report 02-559R, (Washington, May 22, 2002.

the DCPS under the IDEA. Section 145 of the Act requires attorneys in special education cases brought under the IDEA to disclose all financial, corporate, legal, or other interest or relationships with any special education diagnostic services or schools to which the attorney may have referred any client.

Charter Schools

Faced with declining performance of the city's public schools, Congress passed legislation allowing for the creation of public charter schools. The District of Columbia School Reform Act of 1995 granted to the District of Columbia Board of Education, and a newly created District of Columbia Public Charter School Board authority to establish charter schools. These two entities act independently in granting charter schools, but combined the two boards can charter no more than 20 schools per year. Charter schools can be established in one of three ways: private or existing public schools may convert to charter schools, or a charter school may be created as a new startup. These schools are independent of the public school system, but like their public school counterparts, they receive funds based on a uniform per pupil funding formula. The purpose of these independent public charter schools is to offer viable alternatives to students and parents. Currently, there are 39 public charter schools operating in the District serving 14% of the school population.

P.L. 108-7, includes several provisions in support of the public charter school movement in the District of Columbia. The Act appropriates $17 million for charter school activities including $8 million for a credit enhancement revolving fund, and $5 million for a facilities improvement fund. In addition the Act establishes the Office of Public Charter School Financing and Support and amends the District of Columbia School Reform Act of 1995 to establish the Charter School Fund. The Act also includes a provision directing the General Accounting Office to provide a detailed analysis of the District's and national efforts to establish adequate charter schools facilities. These provisions demonstrate Congress's continued support for the District's charter school movement. They are intended to address a major issue confronting charter schools in the city – finding, financing, and renovating adequate facilities.

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