

CRS Report for Congress

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Appropriations for FY2002: District of Columbia

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Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bounded 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 Appropriations Subcommittees on the District of Columbia Appropriations. 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.

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Appropriations for FY2002: District of Columbia

Summary

On December 21, 2001, President Bush signed into law the District of Columbia Appropriations Act for FY2002, P.L. 107-96 (formerly H.R. 2944). Two weeks earlier, the House on December 6, 2001, and the Senate on December 7, 2001, approved the conference report accompanying H.R. 2944, after resolving significant differences in the general provisions of their respective versions of the act. The act, which appropriates \$408 million in special federal payments, includes \$16 million for reimbursement to the District for the cost of providing security for a cancelled World Bank and International Monetary Fund meeting, and for security planning in the wake of the attacks on the Pentagon and World Trade Center on September 11, 2001. In addition, the act approves the city's \$5.3 billion operating budget for the current fiscal year. The act lifts the ban on the use of District funds for a domestic partners health insurance act approved by the city council and signed by the mayor in 1992. Congress has maintained the prohibition on the use of federal and District funds for needle exchange programs, rejecting a Senate provision that would have lifted the prohibition on the use of District funds for such activities. The act lifts the restriction on the location of such activities near public and charter schools. The act, as passed by Congress, requires the District of Columbia public schools to submit to Congress a report that identifies all judgments against the DC public schools under the Individuals with Disabilities Education Act.

The District's FY2002 budget request was submitted to Congress on May 25, 2001. The city budget request included \$199 million in federal payments to the District of Columbia. The city's budget proposal included \$5.3 billion in general operating fund expenditures, and \$611 million in enterprise funds. The budget also included \$78 million in funding for the newly created Health Care Safety Net Administration, which replaced the city's discredited Public Benefits Corporation.

Earlier in 2001, House and Senate District of Columbia Appropriations Subcommittees held hearings that focused on child and family services, and proposed reforms of the family division of the District of Columbia Superior Court. P.L. 107-96 includes \$24 million for a new Family Court Division of the District's Superior Court, including \$500,000 for the Child and Family Services Agency. The committees also held hearings on the courts, corrections, the fiscal condition of the city, and the future role of the Chief Financial Officer.

On April 30, 2001, the control board, which was created by Congress to address the city's fiscal and governance problems, approved a resolution that abolished the Public Benefits Corporation and transferred responsibility for the administration of health care services to the Health Care Safety Net Administration. The Authority also awarded a contract for health care services to Greater Southeast Community Hospital and the Health Care Alliance.

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Division abbreviations: G&F = Government and Finance Division; DSP = Domestic Social Policy Division

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Appropriations for FY2002: District of Columbia

Most Recent Developments

On December 21, 2001, President Bush signed into law the District of Columbia Appropriations Act for FY2002, P.L. 107-96 (formerly H.R. 2944). The House on December 6, 2001 and the Senate on December 7, 2001 approved the conference report accompanying H.R. 2944, after resolving significant differences in the general provisions of their respective versions of the act. The act as approved by Congress reduces the number of general provisions from 67 to 42. P.L. 107-96 appropriates \$408 million in special federal payments and approves the District's \$7.1 billion total budget, including \$5.3 billion in general operating funds. The act includes \$12.6 million in special federal payments for security planning, in the wake of the terrorist attacks on the Pentagon and World Trade Center on September 11, 2001. The city also received \$3.4 million to cover the cost of security for a World Bank and International Monetary Fund (IMF) meeting scheduled for late September 2001. The World Bank and IMF meeting was postponed amid concerns about security following the events of September 11. In response to the attacks, Congress appropriated \$40 billion in FY2001 emergency supplemental assistance to address national needs. The costs of providing federal, state, and local preparedness for mitigating and responding to the attacks, and repairing public facilities and transportation systems damaged by the attacks, are two of the eligible uses of funds appropriated under the act. The Defense Appropriations Act, P.L. 107-117, signed on January 10, 2002, appropriates \$200 million in special federal payments to the District of Columbia and metropolitan area regional entities to assist the city and region in upgrading and executing emergency response plans.

**Table 1. Status of District of Columbia Appropriations, FY2002:
P.L. 107-96 (formerly H.R. 2944)**

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conf. Report Approved		Pres. Action
House	Senate						House	Senate	
9/20/01	10/11/01	107-216	9/25/01	107-85	11/07/01	107-321	12/06/01	12/07/01	signed on 12/21/01 P.L. 107-96

Background

Since the signing of the District of Columbia Appropriations Act for FY2001, P.L. 106-522, on November 22, 2000, 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. The cooperative efforts of the city's elected leadership, the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority)¹, the Chief Financial Officer (CFO), the courts, and Congress have enabled the city to meet the requirements for the return of home rule. The CFO's Comprehensive Annual Financial Report (CAFR), released in January 2001, certified that the city had achieved a \$241 million budget surplus for FY2000. This achievement satisfied the final requirement of the District of Columbia Financial Responsibility and Management Assistance Act, P.L. 104-8, for the return to home rule—four consecutive years of balanced or surplus budgets. The favorable report means the end of a control period, and the dissolution of the Authority's powers on September 30, 2001. The city also has met the preconditions for the return of four city agencies from court-ordered receivership, yet another sign, according to city leaders, that the District has made progress in addressing government service delivery issues.

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 faces an \$80 million budget deficit and issues surrounding special education services and the certification of charter schools. The debate among city officials on the downsizing of D.C. General Hospital was contentious and resulted in fractured relations between the city's appointed and elected leadership.

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). The Authority and the CFO are charged with improving the delivery of city services and returning the District of Columbia to a position of financial solvency. Working in concert with the District's elected political leadership, the Authority and the CFO have implemented a series of financial and management reforms and have improved tax collection. These reforms, federal assistance, and an improved economy have resulted in four consecutive years of budget surpluses. P.L. 104-8, the act creating the Authority and the CFO, requires the District to produce four consecutive years of balanced budgets as a prerequisite for the termination of the Authority and the return of home rule.

¹The Authority is also known as the control board.

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 \$86.4 million after subtracting a \$35 million payment to the retirement of the city's long-term debt. For FY2000, the general fund surplus was \$241 million.

On May 19, 2000, Natwar Gandhi, the former deputy CFO to Valerie Holt and Mayor Williams, became the city's third CFO. On January 26, 2001, the CFO released the city's Comprehensive Annual Financial Report (CAFR) for FY2000. The report, which is a critical barometer of the city's financial health, showed the city had a budget surplus of \$241 million. The FY2000 CAFR met the CFO's key objectives of producing an unqualified audit opinion and a balanced budget for the fourth consecutive year.

This year Congress and the city's elected leadership have considered legislation concerning the future role of the CFO after the restoration of home rule. The Office of the CFO (OCFO) has played a critical role in the city's success in maintaining budget discipline and its return to fiscal health. The city has considered legislation that makes the OCFO a permanent part of the city's governing structure. Without such legislation, the OCFO will cease to exist beyond September 30, 2001, the end of the control period.³ In July 2001, a conference committee considering supplemental appropriations for the District of Columbia for FY2001 considered, but later withdrew, a proposal regarding the District's Chief Financial Officer. The proposal sought to strengthen the powers of the office by giving the CFO subpoena powers and access to all city agencies' records. Further, the proposal would have extended the OCFO's independence from the Mayor to FY2006. In addition, the plan would have permitted the mayor to appoint a CFO, and would have given that official control of the agency's \$68 million budget, 1,000 employees, legal counsel, and contracts. The proposal was introduced, in part, to fill an oversight void that will be created by the departing financial control board, which ceases to exist on October 1, 2001. The plan was withdrawn during conference committee consideration of the bill in deference to legislation being considered by the city council.

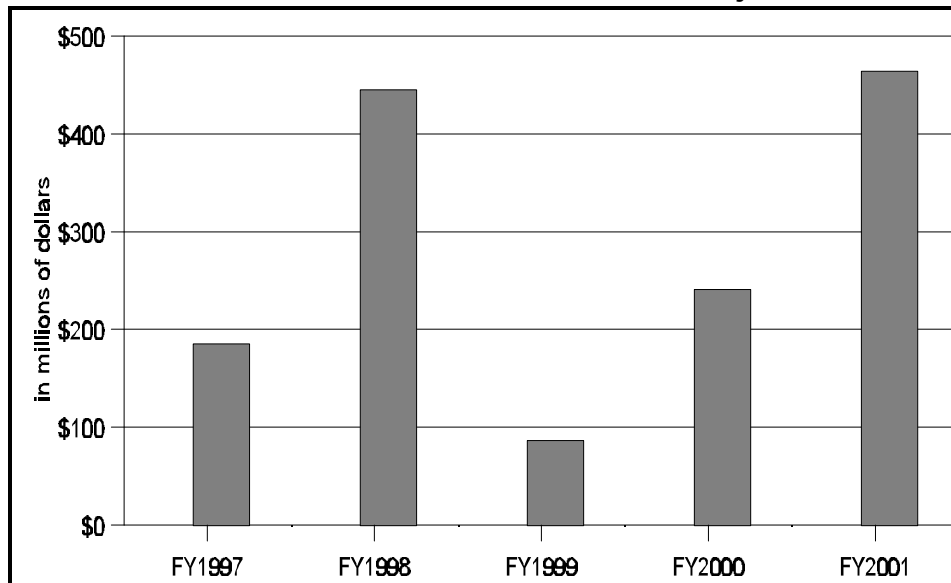
On June 19, 2001, the city council held a public hearing on the Independence of the Chief Financial Officer Establishment Act of 2001, B14-0254. The legislation makes the position of CFO permanent; it provides for the appointment and removal

²The 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.

³Under 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 back to the Mayor. During a control period authority over the operations of the city government rest with the control board.

of the CFO by the mayor, with the consent of the city council; and the act 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. The act is subject to congressional review. Congress has 30 legislative days to review the act. A legislative day is any day in which one or both houses of Congress are in session.

**Figure 1. Year-End General Fund Balance:
FY1997-FY2000 Actual and FY2001 Projected**



Public Benefits Corporation

During the past year, city leaders and Congress have attempted to address problems and controversies surrounding the Public Benefits Corporation (PBC), D.C. General Hospital, and the restructuring of the city's health care delivery system for uninsured residents of the city. In November 2000, Congress included a provision in the District of Columbia Appropriations Act of FY2001, P.L. 106-522, prohibiting the PBC from borrowing funds from the District of Columbia government. In addition, the act required the mayor, the city council, the Authority, the CFO, and the Chair of the Board of Directors of the PBC to develop and approve a restructuring plan for D.C. General Hospital.

Reform in the city's delivery of health care to the poor was sought by Congress because of the well-documented problems of the PBC and its mismanagement of D.C. General Hospital. Since 1997, the PBC amassed \$109 million in unbudgeted loans from the city, using its power to borrow from the city's general fund in anticipation of Medicaid reimbursements. These unbudgeted loans were used by the PBC to cover deficit spending and defer mounting debt. However, the hospital did a poor job in seeking reimbursement for treatment. In addition to its poor financial management, 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 PBC was also the

subject of a critical report by health care consultants Cambio Health Solutions. Hired by the PBC in 2000, the consultants criticized the PBC for: (1) a lack of oversight by the PBC's board of directors, (2) poor patient care, (3) undocumented or poorly documented overtime, and (4) the lack of health care experience among some members of the PBC's management team.

The consultants recommended the downsizing and restructuring of the hospital from a 250-bed advance trauma center to a community access hospital or urgent care facility that treats and releases or transfers patients within 23 hours of admittance. By late August 2000, the downsizing of the hospital staff had begun with the announcement that 550 employees of the 2,000-person workforce would be laid off before the end of the year.

In December 2000, the mayor, with the support of the Authority, had formalized a proposal that downsized D.C. General Hospital and provided health care services through a contract with a group of private health care providers led by Greater Southeast Community Hospital. The mayor's proposal was not supported by a majority of the city council. On March 6, 2001, the city council unanimously passed a resolution rejecting the Authority's recommendation for the awarding of a contract for health care services for the uninsured to Greater Southeast Community Hospital. Several city council members expressed concern that the privatization proposal would erect new barriers to care for the city's 65,000 uninsured residents. The majority of the city council preferred keeping D.C. General as a full-service hospital. Their plan involved providing the hospital with \$21 million in assistance that would have been used to keep it open until the end of the fiscal year, which was also the end of the control period and the Authority's powers. During this time, the city could find a more permanent solution short of downsizing or closing the hospital. After 2001, the city council would be in a strong position to override the mayor's veto without the threat of the control board negating their veto override.

On April 30, 2001, the Authority used its veto power to negate a city council's override of a mayoral veto of the \$21 million city council proposal that would have kept D.C. General Hospital open until September 30, 2001, the end of the 2001 fiscal year. In addition, the Authority voted to dissolve the PBC and transferred its responsibilities to the city's Department of Health. The Authority signed an agreement with Greater Southeast Community Hospital Corporation and the Healthcare Alliance to provide health care services to the city's uninsured residents. The Authority's actions were controversial and represented a departure from its more recent efforts to allow the city's elected officials—the mayor and the city council—to work out their policy differences. The action was taken after the city council rejected the mayor's proposal for revamping the city's health care service delivery system and voted on April 27, 2001, to override a mayoral veto and provide \$21 million in FY2001 supplemental assistance to the PBC.

The control board's constitutional authority to exercise such power was challenged in court by two members of the city council and several unions representing hospital employees. On April 30, 2001, city council members Kevin Chavous and David Cantania filed suit in the United States District Court for the District of Columbia challenging the Authority's powers to award the contract for health care services and to dissolve the PBC. The council members' suit argues that

the control board acted without statutory authority and over the objection of the city council, which on March 6, 2001, unanimously passed a resolution rejecting the Authority's recommendation for the awarding of a contract for health care services for the uninsured to Greater Southeast Community Hospital. The court, which issued its opinion on August 6, 2001, found that only the council members had standing to bring suit against the Authority. The court further found that although the council members had standing to bring suit, the Authority acted within the powers granted it by Congress under P.L. 104-8 when it overrode the city council and awarded the contract.

School Reform

In June 2000, voters approved by referendum an amendment to the city's home rule charter. The referendum changed the structure of the Board of Education. It abolished the 11-member board comprising one person elected from each of the city's eight wards, and three—including the chair—elected at-large. The composition of the new nine-member Board of Education includes four members elected to represent four school districts, an elected chair of the board, and four members appointed by the mayor. This new structure gives the mayor a significant voice in determining the direction of public education, and it makes him more accountable, by way of his appointments, for the future success or failure of the city's public schools.

In November 2000, voters elected a chair and four members to the new Board of Education, and the mayor subsequently appointed four others. The city's new nine-member school board began its oversight of the school system in January 2001. Earlier this summer, the Board announced a three-year contract extension with Superintendent Paul Vance. The move was applauded by parents, city officials, and congressional leaders. The reform-minded Board of Education and superintendent face several challenges, including improving special education, raising academic achievement, and improving the physical facilities. The board also faces issues concerning its oversight of charter schools and skepticism about the effectiveness of a school board composed of appointed and elected members, and its ability to avoid the pitfalls that have confronted other school reform efforts.

A November 22, 2000 report by the District's Inspector General was critical of the school system's inability to provide adequate transportation services for special education students. In 1999, a District court assigned a special master to monitor the situation. In addition, an unreleased draft report by the City Council Special Council Committee on Special Education⁴ has detailed problems in the District's delivery of other special education services. The draft report is critical of District of Columbia Public Schools' (DCPS) past operation of special education programs and the process for the evaluation of student needs for special services. Among the recommendations contained in the draft report are the following: (1) that the DCPS strengthen its commitment to provide adequate and qualified staff in the delivery of special education services; (2) that the DCPS improve its management of

⁴The committee was created in April 1999, and was to issue a report one year later. The committee has not yet issued a final report.

transportation costs and the dependability of transportation services; and (3) that the DCPS improve the process used to assess and place students with special needs.

Students' performance on standardized reading and math tests again has disappointed school administrators, remaining stagnant for the second consecutive year. Despite this lack of progress, Superintendent Paul Vance remains optimistic that improvement will be made in the coming years. The DCPS has hired at least 29 new principals and has begun to implement its strategic plan which includes efforts to improve the DCPS's interaction with other city agencies. The plan also holds principals accountable for school performance.

The lack of progress in improving academic performance in the public schools has fueled the growth of public charter schools. Nearly 10,000 students—one in every 10 students—are enrolled in one of the approximately 34 public charter schools in the District. At least 17 of these schools were chartered by the Board of Education, with the remainder receiving charters from the Public Charter School Board, which was created by Congress when it passed charter school legislation in 1996. The lack of consistency between the two governing bodies charged with granting and overseeing charter schools, and the increased costs of regulating charter schools are two of the concerns about the existence of two chartering authorities. (For additional information on charter schools in the District of Columbia see the DC Applesseed Center Report entitled *Charter Schools in the District of Columbia: Improving Systems for Accountability, Autonomy, and Competition*, April 2001.)

On September 6, 2001, city and school officials announced an \$80 million budget deficit for FY2001. The overspending, mostly cost overruns in special education and the failure to document properly special education expenses submitted for Medicaid reimbursement, will be offset by hiring freezes, fund transfers, and unanticipated growth in tax revenue. Though the deficit does not jeopardize the city's return to home rule, the unanticipated overspending was a source of embarrassment for school officials, the CFO, and the city's elected leaders. In order to deal with the deficit, school board officials announced that they were considering shortening the school year by 7 days. The school board reconsidered after the idea was criticized by congressional members and the city's elected leadership, and after city leaders provided an additional \$10 million in funding for the remaining school year.

Receiverships

During the past year the District government successfully removed four agencies from control by court-appointed receivers. In September 2000, the District's Housing Authority and the District of Columbia Jail Medical Services were returned to District control. Working with the courts and advocacy groups, Mayor Williams and his administration were able to negotiate the return of the Mental Health Services and Child and Family Services to District control. Although the return of the departments was a major accomplishment for the mayor, the inability of the two court-appointed receivers to make significant progress in the delivery of services also played a role in the court's willingness to return administrative control to the District government.

On October 23, 2000, District Court Judge Thomas Hogan approved a plan for returning the Child and Family Services agency to District control by the summer of

2001. The agency had been under receivership since August 1995, following findings in *LaShawn v. Williams* that the agency failed to provide adequate supervision of children under its care, and that children under its care were abused and neglected. The judge's consent decree of October 23, 2000, established 26 preconditions and a six-month probationary period before the agency could return to District control. The conditions imposed by the consent decree included: prohibiting budget cuts and layoffs; increasing the number of home visits by social workers; passing legislation that would place the responsibility for investigating abuse and neglect cases with Child and Family Services rather than splitting the duty between the police and the agency; developing licensing standards for foster care and group homes; and elevating the agency to cabinet-level status.

The Child and Family Services Agency Establishment Act of 2001 was passed on April 4, 2001, elevating the agency to cabinet-level status and fulfilling one of the final requirements for termination of the receivership. On May 21, 2001, Judge Hogan entered an order terminating the receivership, effective July 15, 2001.

In addition, Congress is considering legislation that would amend and restructure the family court division of the District of Columbia Superior Court. The House bill (H.R. 2657) and the Senate bill (S. 1382) would increase to 15 the number of judges assigned to Family Court; and would require judges assigned to Family Court to have expertise in family law, agree to participate in ongoing training, and serve for a minimum term of three to five years. Congressional interest in reforming family court can be traced to the tragic death of a 23-month-old child, Briana Blackmon, who was beaten to death after a family court judge ordered that the child be returned to her mentally unstable mother.

In May 2001, the city council passed The Department of Mental Health Establishment Emergency Amendment Act of 2001. Passage of the act was one of the requirements for the transfer of the Commission on Mental Health Services back to District government control. The agency had been under the control of a court-appointed receiver since 1997. Much of the support for returning the agency to city control centered on the receiver's inability to manage the agency adequately. A newspaper series chronicled the agency's problems, including the deaths of 24 mentally retarded or developmentally disabled group home residents since 1999.

Future Role of the Authority and the CFO

The District of Columbia Financial Responsibility and Management Assistance Act, P.L. 104-8, identified four conditions for the ending of a control period and the return to home rule. The District must demonstrate that:

- (1) all obligations arising from the Authority's issuance of bonds, notes, or other obligations have been discharged;
- (2) all borrowing by the District from the United States Treasury has been repaid;
- (3) the District government has adequate access to short and long-term credit markets at reasonable rates to meet its borrowing needs; and

(4) the District has achieved balanced or surplus budgets for four consecutive fiscal years.

On February 14, 2001, the Authority announced that the District of Columbia had met the fourth and final precondition for the return of home rule to the city's elected leadership and the suspension of the Authority's oversight and management powers. Congress has held hearings to explore the future role of the CFO and the Authority following the end of the control period. In addition, the District's city council passed the Independence of the Chief Financial Officer Establishment Act of 2001, which authorizes the mayor to appoint a CFO, with the advice and consent of the city council, to a five-year term. The legislation transfers to the CFO the responsibility for the management of all executive branch agencies involved in managing the city's finances. It requires the CFO to perform many of the functions authorized by the federal legislation P.L. 104-8.

Budget Request

Emergency Terrorism and Disaster Recovery Supplemental Appropriations

On September 11, 2001, the Pentagon and World Trade Center were the targets of terrorist attacks. In response to the attacks, Congress appropriated \$40 billion in FY2001 emergency supplemental assistance (P.L. 107-38). The costs of providing federal, state, and local preparedness for mitigating and responding to the attacks, and repairing public facilities and transportation systems damaged by the attacks, are two of the eligible uses of funds appropriated under the act. According to press reports, the District requested \$13 million to reimburse the District government for cost incurred in responding to the attack on the Pentagon. The Bush Administration has reimbursed the District \$6 million for the cost associated with responding to the September 11, 2001, attacks. Additional funds may be directed to the District and the surrounding region to assist them in upgrading and executing their emergency response. The District government has been criticized for its poor execution of the emergency management response to the attack on the Pentagon. The mayor announced that the city will accelerate work on a coordinated regional plan for terrorist attacks, and the city has rewritten a basic city emergency plan to anticipate specific problems that may be caused by any future attacks.

On October 9, 2001, the District government forwarded a request for additional funds for emergency preparedness and economic recovery to the Office of Management and Budget. The mayor requested \$249 million for emergency planning and response activities and \$512.9 million for economic recovery activities, including small business loans, unemployment compensation, and revenue lost. Additionally, the mayor's request included \$182 million in economic stimulus assistance. This included assistance for street resurfacing, technology modernization, and school repairs. The final disposition of the District's budget request has not yet been announced. However, there is an emerging concern about the use of funds for economic stimulus. Some members of Congress believe that economic stimulus

provided to cities affected by the events of September 11, 2001, should be part of a larger and separate economic stimulus package.

Supplemental Appropriations for FY2001

On July 24, 2001, the President signed P.L. 107-20, the Supplemental Appropriations Act for FY2001. The act includes \$107 million in additional FY2001 appropriations. The primary source of the additional appropriations will be local funds drawn from the city's surplus or reserves and used to cover cost overruns of various agencies or new initiatives. The act includes a rescission of \$131,000 for taxicab inspectors and a \$250,000 rescission budgeted for activities related to the simplification of employee compensation systems, and transfers the funds to public education budget function for use under the Excel Institute Adult Education Program.

The act requires the mayor to report to Congress, within 45 days of the passage of the act, on the specific authority necessary to carry out certain responsibilities transferred to the CFO in a non-control year and certain responsibilities relating to the transition of responsibilities under the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Table 2. District of Columbia FY2001 Supplemental Budget Request Included in P.L. 107-20
(in millions of dollars)

Program	City's Request	House	Senate	Conference
Government Direction and Support	5.4	5.4	5.4	5.4
Economic Development and Regulation	1.6	1.6	1.6	1.6
— New E-Conomy Transformation Act	[1.0]	[1.0]	[1.0]	[1.0]
— Dept of Consumer and Regulatory Affairs	[0.6]	[0.6]	[0.6]	[0.6]
Public Safety and Justice	8.6	8.6	8.6	8.9
— Metropolitan Police	[2.8]	[2.8]	[2.8]	[2.8]
— Fire and Emergency Medical Services	[5.9]	[5.9]	[5.9]	[5.9]
— Child Fatality Review	[0.1]	[0.1]	[0.1]	[0.1]
Public Education	14.0	14.0	14.0	13.0
— 2001 Summer School	[12.0]	[12.0]	[12.0]	[12.0]
— Public and Charter School Student Census	[1.0]	[1.0]	[1.0]	[1.0]
— Adult Education Program	[1.0]	[1.0]	[1.0]	—
Human Support Services	28.0	28.0	28.0	28.0
— Medicaid Expansion	[15.0]	[15.0]	[15.0]	[15.0]

Program	City's Request	House	Senate	Conference
— Office of Latino Affairs	[1.0]	[1.0]	[1.0]	[1.0]
— Disproportionate Share of Hospital Cost	[4.0]	[4.0]	[4.0]	[4.0]
— Disability Compensation	[3.0]	[3.0]	[3.0]	[3.0]
— Children's Invest. Fund	[5.0]	[5.0]	[5.0]	[5.0]
Public Works	0.1	0.1	0.1	0.1
Workforce Investment	40.5	40.5	40.5	40.5
Wilson Building	7.1	7.1	7.1	7.1
Water and Sewer Authority	2.1	2.1	2.1	2.1

FY2002: The President's Budget Request

On April 9, 2001, the Bush Administration released its FY2002 budget recommendations. The Administration's proposed budget included \$342.5 million in federal payments to the District of Columbia. An overwhelming percentage of the President's proposed federal payments and assistance to the District involved the courts and criminal justice system. This included \$147.3 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 \$111.2 million in support of court operations, and \$32.7 million for the trustee appointed to oversee the District's corrections system, including the closing of the Lorton Correctional Facility and the transfer of its inmates into the federal prison system. These four functions (prison administration, court operations, defender services, and offender supervision) represent \$325.5 million, or 95%, of the President's proposed \$342.5 million in federal payments to the District of Columbia (see **Table 3**).

FY2002: District's Budget Request

On May 25, 2001, District officials transmitted the city's \$5.3 billion budget for FY2002 to Congress for review and approval. The city's budget included a \$150 million reserve fund mandated by the District of Columbia Appropriations Act of 1999, P.L. 105-277. In addition, the budget sought to increase funding for public education by \$107 million, for human support services by \$207 million, and for general government support by \$88.8 million. The budget must be approved by Congress (see **Table 4**).

FY2002: 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.

On June 21, 2001, the Senate Appropriations Committee approved a revised 302(b) suballocation for the District of \$392 million. The House Appropriations Committee approved a Section 302(b) suballocation of \$382 million in budget authority for FY2002 for the District of Columbia. On September 20, 2001, the House revised its Section 302(b) allocation for the District of Columbia Appropriations to \$399 million.

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 passed 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.

Table 3. District of Columbia General and Special Federal Payment Funds: Proposed FY2002 Appropriations
(in millions of dollars)

Programs	Enacted FY2001	FY2002				
		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
Incentives for the Adoption of Foster Children	0.0	0.0	{5.0} ^d	{5.0} ^d	{5.0} ^d	{5.0} ^d
— Adoption	0.0	0.0	0.0	0.0	[2.0]	[2.0]
— Scholarship	0.0	0.0	0.0	0.0	[1.0]	[1.0]
— Resource Center	0.0	0.0	0.0	0.0	[1.0]	[1.0]
— Incentives for Special Needs Children	0.0	0.0	0.0	0.0	[1.0]	[1.0]
Capitol City Career Dev. and Job Training	0.0	0.0	0.0	1.5	0.0	0.5
Capitol Education Fund	—	—	—	—	—	0.5
Metro. Kappa Youth Dev. Foundation	—	—	—	—	—	0.45
Fire and Emergency Medical Services Dept.	0.0	0.0	0.0	0.5	0.0	0.5
Chief Medical Examiner	0.0	0.0	0.0	0.6	0.0	0.585
Youth Life Foundation	0.0	0.0	0.0	0.3	0.0	0.25
Food for Friends Program	0.0	0.0	0.0	2.0	0.0	2.0
City Administrator	0.0	0.0	0.0	0.3	0.0	0.3
Chief Technology Officer	0.0	0.0	0.0	0.5	—	0.0
Southeastern Univ./ McKinley Tech Partnership	0.0	0.0	0.0	0.0	0.5	0.5
Emergency Planning ^g	0.0	0.0	16.0	16.0	16.0	16.06
— Development of an Emer. Ops. Plan	0.0	0.0	0.0	[4.6]	—	—
— Emer. Plan Implementation	0.0	0.0	0.0	[8.0]	—	—
— World Bank/IMF reimbursement	0.0	0.0	0.0	[3.4]	[3.4]	[3.4]
CFO	0.0	0.0	0.0	2.3	5.9	8.3

Programs	Enacted FY2001	FY2002				
		Admin.	City's budget	House	Senate	Conf.
— Active Cap River Cleanup	0.0	0.0	0.0	0.0	[2.25]	[2.25]
— U.S. Soccer Kenilworth Sports	0.0	0.0	0.0	0.0	[0.5]	[0.5]
—One Economy Corp.	0.0	0.0	0.0	0.0	[0.6]	[0.6]
— Langston Project	0.0	0.0	0.0	0.0	[0.5]	[0.5]
— Green Door	0.0	0.0	0.0	0.0	[1.0]	[1.0]
— City Museum	0.0	0.0	0.0	0.0	[0.5]	[0.5]
— Teach for America	0.0	0.0	0.0	0.0	[0.2]	[0.2]
— Child Passenger Safety	0.0	0.0	0.0	0.0	[0.35]	[0.35]
— Eastern Market. Renovation Study	—	—	—	—	—	[0.05]
—Excel Institute Adult Education Program	1.0	0.0	—	[1.0]	0.0	[1.0]
— Woodlawn Cemetery Restoration	0.0	0.0	0.0	[0.3]	0.0	[0.3]
— Real World Schools	—	0.0	—	[0.25]	0.0	[0.25]
— Mentoring and hotline	—	0.0	0.0	[0.3]	0.0	[0.3]
— Values training	—	0.0	0.0	[0.25]	0.0	[0.25]
— Character building	—	—	—	[0.25]	0.0	[0.25]
Court Appointed Special Advocate	—	—	—	—	0.25	0.25
Corrections Trustee for Operations	134.7	0.0	0.0	32.7	32.7	30.2
— Case processing	[1.0]	0.0	0.0	[1.0]	[1.0]	[1.0]
— Lorton sewage treatment plant closing	—	0.0	0.0	[2.0]	[2.0]	[1.5]
— Lorton Building renovations	—	0.0	0.0	[2.5]	[2.5]	[0.5]
District of Columbia Courts Operation	123.4	0.0	0.0	134.7	140.2	112.2
— Court operations	[123.4]	[111.2]	[111.2]	[111.2]	[116.9]	—
— Court of Appeals	[7.4]	[8.0]	[8.0]	[8.0]	[8.0]	[8.0]
— Superior Court	[71.1]	[66.1]	[66.1]	[89.5]	[72.7]	[66.1]

Programs	Enacted FY2001	FY2002				
		Admin.	City's budget	House	Senate	Conf.
— Court system:	[17.9]	[31.1] ^e	[31.1] ^e	[31.1] ^e	[31.6]	[31.6]
— Child Abuse and Neglect ^d	0.0	0.0	0.0	0.0	0.0	0.0
— Indigent representation ^b	0.0	0.0	0.0	0.0	0.0	0.0
— Capital improvements	[3.3]	[6.0]	[6.0]	[6.0]	[27.8]	[6.5]
— Pay raise (8.48%)	[5.3]	0.0	0.0	0.0	0.0	—
Family Court	0.0	0.0	0.0	23.3	23.3	24.02
— Superior Court	0.0	0.0	0.0	[18.3]	0.0	[23.3]
— Mayor	0.0	0.0	0.0	[5.0]	0.0	[0.7]
— Child and Fam. Serv. Agency	—	—	—	—	[0.5]	[0.5]
Defender Services in D.C. Courts ^c	34.4	34.3	34.3	34.3	39.3	34.3
Court Services and Offender Supervision Agency for the District of Columbia	112.5	147.3 ^f	— ^f	147.3 ^f	147.3 ^f	147.3 ^f
— Community Supervision and Sex Offender Registration	[67.5]	[94.1] ^f	— ^f	[94.1] ^f	[94.1]	[94.1]
— Parole Revocation, Adult Probation and Offender Supervision:	—	— ^f	— ^f	— ^f	— ^f	— ^f
— Drug testing and screening	—	— ^f	— ^f	— ^f	— ^f	— ^f
— Public Defender Service	[18.8]	[20.8] ^f	— ^f	[20.8] ^f	[20.8]	[20.8] ^f
— Pretrial Service Agency	[26.2]	[32.4] ^f	— ^f	[32.4] ^f	[32.4]	[32.4] ^f
Children's National Medical Center	1.5	0.0	0.0	5.5	3.2	5.5
Thurgood Marshall Academy Charter School	—	—	—	0.0	1.0	1.0
D.C. Public Schools	0.0	0.0	0.0	0.0	2.7	2.5
— Voyager Expanded Learning Literacy	0.0	0.0	0.0	0.0	[2.0]	[2.0]

Programs	Enacted FY2001	FY2002				
		Admin.	City's budget	House	Senate	Conf.
— Failure Free Reading Literacy	0.0	0.0	0.0	0.0	[0.25]	[0.25]
— Lightspan, Inc., eduTest.com	—	—	—	—	—	[0.25]
G. Washington University Center for Excellence in Municipal Management	0.0	0.0	0.0	0.0	0.25	0.25
Child and Family Social Services Computer Integration Plan	0.0	0.0	0.0	0.0	0.2	0.0
Law Enforcement Mobile Wireless Interoperational	0.0	0.0	0.0	0.0	1.4	1.4
— CTO	0.0	0.0	0.0	0.0	[0.4]	[0.4]
— U.S. Secret Service	0.0	0.0	0.0	0.0	[0.33]	[0.33]
— U.S. Capitol Police	0.0	0.0	0.0	0.0	[0.33]	[0.33]
— U.S. Park Police	0.0	0.0	0.0	0.0	[0.33]	[0.33]
St. Coletta expansion	1.0	0.0	0.0	1.0	0.0	2.0
Faith and Politics Institute	0.0	0.0	0.0	0.05	0.0	0.05
Poplar Point Brownfield Remediation	3.5	0.0	3.5	{3.5}	{3.5}	{3.5}
— Environmental assessment	[2.15]	0.0	[2.15]	[2.15]	0.0	[2.15]
— Anacostia Park entrance	[1.3]	—	[1.3]	[1.3]	0.0	[1.3]
Public School Anti-Violence programs	0.5	0.0	0.0	0.0	0.0	0.0
— Anti-violence	[0.25]	0.0	0.0	0.0	0.0	0.0
— Reading programs	[0.25]	0.0	0.0	0.0	0.0	0.0
Washington Interfaith Network	1.0	0.0	0.0	0.0	0.0	0.0
Simplified Personnel System	0.25	0.0	0.0	0.0	0.0	0.0
Metro improvements	25.0	0.0	0.0	0.0	0.0	0.0
Presidential inauguration	5.96	0.0	0.0	0.0	0.0	0.0
Child Advocacy Center	0.5	0.0	0.0	0.0	0.0	0.0
Special Olympics	0.25	0.0	0.0	0.0	0.0	0.0

Programs	Enacted FY2001	FY2002				
		Admin.	City's budget	House	Senate	Conf.
Enforcement of law banning tobacco possession by minors	0.1	0.0	0.0	0.0	0.0	0.1
Total federal payments	464.1	342.5	199.15	398.6	407.9	407.9

^a Funds provided under a separate heading—Defender Services for the District of Columbia Courts. The transfer is based on the Courts misuse of funds appropriated for such activities in previous years.

^b Funds provided under a separate heading—Defender Services for the District of Columbia Courts. The transfer is based on the Courts misuse of funds appropriated for such activities in previous years.

^c 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.

^d The \$5 million made available for FY2001 is a carryover of unobligated funds appropriated in FY2000. This amount is not included in total special federal payments for FY2001.

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

^f Certified as a federal agency on August 14, 2000.

^g Funds were originally targeted to cover the costs associated with providing security for a World Bank and International Monetary Fund meeting scheduled of late September 2001. The meeting was cancelled following the terrorist attacks on the Pentagon and World Trade Center.

H.R. 2944, House Version. On September 25, 2001, the House approved the District of Columbia Appropriations Act for FY2001, H.R. 2944, by a vote of 327 to 88. The bill included \$398 million in special federal payments and contributions to the District. The majority of these funds were to be used for court, prisons, and offender supervision-related activities. The House bill allocated approximately 95% of the \$398 million in special federal payments to these activities. In addition, the House bill included \$16 million for emergency planning. The House Appropriations Committee originally recommended that the funds be used for costs associated with security for a World Bank and International Monetary Fund meeting that was scheduled for the end of September 2001, but was postponed because of the September 11, 2001 terrorist attacks on the Pentagon and World Trade Center.

On September 20, 2001, the House Appropriations Committee reported out the District of Columbia Appropriations Act for FY2002 (H.Rept. 107-216). The Committee's markup and reporting of the District Appropriations Act for FY2002, which was scheduled for September 13, 2001, was delayed following the September 11, 2001 terrorist attacks on the Pentagon and World Trade Center. On September 6, 2001, the House Subcommittee on the District of Columbia Appropriations completed its markup of an unnumbered bill containing its budget recommendations for FY2002 for the District of Columbia to the Appropriations Committee.

FY2002 General Provisions, House Bill. In a change from previous years, House and Senate appropriations committees pledged to review the general provisions of the District of Columbia with the aim of reducing the number by eliminating redundant, irrelevant, inappropriate, or arcane provisions. District officials have sought, in previous years, to reduce the number of provisions, but

without success. These officials have been particularly critical of the number of social riders that have been included in previous appropriations acts. These provisions have included prohibitions on the use of federal and city funds for abortions, the use of marijuana for medical purposes, limitations on the distribution of hypodermic needles to illegal drug users, and domestic partners health insurance coverage.

During its consideration of the bill, the House Appropriations Committee approved an amendment, offered by Representatives Kolbe and Moran, 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 would allow unrelated couples to register as domestic partners, and would allow any District employee so registered to include his or her domestic partner under the same health insurance plan. The District employee would be responsible for paying the additional premium for coverage of the domestic partner not employed by the District government. For a review of the general provisions contained in H.R. 2944, see CRS Report RL31159, *District of Columbia Appropriations Act for FY2002: Comparison of General Provisions of P.L. 106-522, and House, Senate, and Conference Versions of H.R. 2944*, by Eugene Boyd.

H.R. 2944, Senate Version (formerly S. 1543). On November 7, 2001, the Senate approved its version of H.R. 2944, substituting the language contained in S. 1543. The bill included \$408 million in special federal payments and contributions to the District. The majority of the funds were to be used for courts, including funds for a new family court division; prisons; and offender supervision-related activities. The Senate bill also included funds for emergency planning activities in response to the September 11, 2001 terrorist attacks. In addition, the Senate bill included \$1.4 million for mobile wireless interoperational links between the city's Chief Technology Office and three federal law enforcement agencies—the Secret Service, the Park Police, and the Capitol Hill Police.

FY2002 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, which would allow unrelated couples to be covered under the same health insurance plan. The Committee also reduced the number of general provisions included in the bill to 36. It retained a number of provisions that District officials wanted eliminated or modified, including those related to medical marijuana, abortion, and needle exchange programs.

During the full Senate's consideration of the bill, several amendments were offered. The Senate defeated an amendment offered by Senator Allen that would have reinstated the prohibition on the use of District funds to support needle exchange programs. The vote was 53 to 47. The Senate considered and approved an amendment offered by Senator Hutchison of Texas that would increase the cap on funding for attorneys' fees to represent students seeking special education services. The Hutchison amendment, which was approved by a vote of 51 to 49, caps the amount of funds payable to such attorneys at no more than \$150 per hour and \$3,000 per case. The Senate approved two related amendments. One, introduced by Senators Durbin and Boxer, exempts from the cap any attorney representing students

in one of three categories when challenging special education placement under the Individuals with Disabilities Education Act:

- the student's family has an income of less than \$17,600 per year; or
- at least one of the student's parents is a disabled veteran; or
- the court has determined the student is the victim of abuse or neglect.

The Durbin/Boxer amendment was approved by a vote of 73 to 26. The Senate also approved a related amendment introduced by Senator Landrieu, the floor manager of the bill. The amendment, which was approved by voice vote, directs the General Accounting Office to submit to the Congress by January 2, 2002, a report detailing the awards in judgment rendered by the courts that were in excess of the caps on the allowable fees an attorney may charge when challenging special education placement in the District of Columbia. For a review of the general provisions contained in House and Senate versions of H.R. 2944, see CRS Report RL31159, *District of Columbia Appropriations Act for FY2002: Comparison of General Provisions of P.L. 106-522, and House, Senate, and Conference Versions of H.R. 2944*, by Eugene Boyd.

H.R. 2944, Conference Version. On December 5, 2001, a House and Senate conference committee reported out the District of Columbia Appropriations Act for FY2002 (H.Rept. 107-321). On December 6, 2001, the House approved the conference report by a vote of 302 to 84, while the Senate approved the act by a vote of 79 to 20 one day later. The act allocates approximately 85% of the \$408 million in special federal payments for court, prisons, and offender supervision-related activities, including \$24 million for a new Family Court Division. In addition, the act includes \$16 million for emergency planning in response to the September 11, 2001 terrorist attacks. It reduces funding for the Correction's Trustee from \$134 million in FY2001 to \$30 million for FY2002. The reduction is a result of the closing of the Lorton Correctional Facility and the transfer of District felons to the federal prison system.

FY2002 General Provisions, Conference Bill. As discussed above, in a change from previous years, House and Senate conferees agreed to reduced the number of general provisions included in the act, focusing on arcane, redundant, or irrelevant provisions. In the past city officials have sought to reduce the number of social riders that have been included in previous appropriations acts, but without success. These provisions have included prohibitions on the use of federal and city funds for abortions, the use of marijuana for medical purposes, domestic partners health insurance coverage, and lobbying for voting representation in Congress, and limitations on the distribution of hypodermic needles to illegal drug users.

The final version of the act removes the restriction on the placement of needle exchange programs near school facilities. The conference bill also removes the prohibition on the use of District funds to implement the District's Health Care Benefits Expansion Act of 1992. In approving the conference report, both chambers of Congress left intact restrictions and prohibitions on the use of federal and District funds for a needle program, lobbying for voting representation in Congress, and medical marijuana. The act also directs the GAO to report to Congress by March 31, 2002, on cost issues related to the payment of legal fees to attorneys representing the

school system and special needs children in cases involving the Individuals with Disabilities Education Act. The Congress directed GAO to undertake the study after issues were raised during appropriation and oversight hearings concerning the accuracy of the school system's estimate of the cost of fees paid to attorneys representing special needs children in proceeding against the school system. The act was signed by the President on December 21, 2001, as P.L. 107-96.

Table 4. District of Columbia General Funds
(in millions of dollars)

Programs	Enacted FY2001	FY2002			
		District	House	Senate	Conf.
Division of Expenses: District of Columbia Funds					
GENERAL FUND					
Governmental Direction and Support	232.721	284.559	285.359	307.117	286.138
Economic Development and Regulation	207.655	230.878	230.878	230.878	230.878
Public Safety and Justice	768.430	632.668	633.853	632.668	633.853
Public Education System	1,023.543	1,106.165	1,106.165	1,108.915	1,108.665
Human Support Services	1,542.240	1,803.923	1,803.923	1,803.923	1,803.923
Public Works	297.495	300.151	300.151	300.151	300.151
Receivership Programs	391.328	403.368	403.368	403.868	403.868
Workforce Investments	0.000	42.896	42.896	42.896	42.896
Reserve Fund	150.000 ^a	150.000	150.000	120.000	120.000
Reserve Relief	0.0	0.0	0.0	30.0	30.0
Contingency Reserve Fund	—	—	—	—	—
Emergency Planning and Security Costs	16.058	0.0	16.058	16.058	16.058
DC Financial Responsibility and Management Assistance Authority	3.140	0.0	0.0	0.0	0.0
Repayment of Loans and Interest	243.238	247.902	247.902	247.902	247.902
Repayment Gen. Fund Recovery Debt	39.300	39.300	39.300	39.300	39.300
Pay Interest on Short Term Borrowing	1.140	0.500	0.500	0.500	0.500
Presidential Inauguration	5.961	0.0	0.0	0.0	0.0
Wilson Building	8.409	8.859	8.859	8.859	8.859
Emergency Reserve Fund Transfer (Tobacco Settlement Trust Fund Transfer)	61.406	33.254	33.254	33.254	33.254
One Judiciary Square Certificate of Participation	7.950	0.0	0.0	0.0	0.0
Optical and Dental Insurance Payments	2.675	0.0	0.0	0.0	0.0

Programs	Enacted FY2001	FY2002			
		District	House	Senate	Conf.
Productivity Savings	0.000	0.0	0.0	0.0	0.0
Procurement and Management Savings	{37.000}	0.0	0.0	0.0	0.0
Human Resource Development	0.000	0.0	0.0	0.0	0.0
Operational Improvement Savings	{10.000}	0.0	0.0	0.0	0.0
Management Supervisory Services	13.200	0.0	0.0	0.0	0.0
Cafeteria Plan	{5.000}	0.0	0.0	0.0	0.0
Productivity Bank	0.000	0.0	0.0	0.0	0.0
Non-departmental Agency	—	5.799	5.799	5.799	5.799
Risk Management	0.000	0.0	0.0	0.0	0.0
General Fund Total Operating Expenses	4,948.280	5,290.222	5,308.265	5,332.088	5,312.044
Enterprise Funds					
Water and Sewer Authority	230.614	244.978	244.978	244.978	244.978
Washington Aqueduct	45.091	46.510	46.510	46.510	46.510
Stormwater Permit Compliance	2.151	3.100	3.100	3.100	3.100
Lottery and Charitable Games	223.200	229.688	229.688	229.688	229.688
Sports and Enter. Commission	10.968	9.127	9.127	9.127	9.627
DC Public Benefit Corp.	78.235	0.0	0.0	0.0	0.0
DC Retirement Board	11.414	13.388	13.388	13.388	13.388
Convention Center Enterprise Fund	52.726	57.278	57.278	57.278	57.278
Housing Finance Agency	0.000	4.711	4.711	4.711	4.711
National Capital Revitalization Corporation	0.000	2.673	2.673	2.673	2.673
Total Enterprise Funds	656.207	611.453	611.453	611.453	611.953
Total Operating Expenses	5,677.380	5,901.675	5,919.718	5,943.541	5,923.997
Capital Outlay					
General Fund	1,218.637	1,029.975	1,074.605	1,074.604	1,074.605
Water and Sewer Fund	197.169	140.725	152.114	152.114	152.114
Total District of Columbia Funds	7,093.186	7,072.375	7,146.437	7,170.259	7,150.716

Note: Brackets indicate projected saving to be achieved and not actual expenditure.

^a Bill established two reserve funds: a “contingency reserve fund” into which the mayor may deposit at least 3% of the total fiscal year operating budget; and an “emergency cash reserve fund” into which the mayor may deposit at least 4% of the total fiscal year operating budget. These reserve funds are to be established over a multi-year period and would augment the present reserve fund of \$150 million.

Key Policy Issues

Needle Exchange

The continuation of a needle exchange program funded with federal or District funds is one of several key policy issues that Congress considered when approving the District's appropriations act for FY2002. The controversy surrounding funding a needle exchange program touched 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 focuses 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 makes 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. Provisions contained in an earlier House version of the District of Columbia Appropriations Act for FY2000 (H.R. 3194) would have prohibited any organization that received federal or District funds from funding a needle exchange program with private funds. This prohibition was dropped during conference consideration of the bill, which was signed by the President on November 29, 1999. Presently, only one entity, Prevention Works, a private nonprofit AIDS awareness and education program, operates a privately funded needle exchange program.

At a minimum, District officials were seeking to remove restrictions on needle exchange activities, and to lift the prohibition on the use of District funds for needle exchange programs. The final version of the act, P.L. 107-96, lifts the restriction that prohibits the operation of needle exchange programs within 1,000 feet of public elementary and secondary schools, including public charter schools. It also maintains the restriction on the use of federal and District funds for needle exchange programs. The bill as initially approved by the House would have continued the prohibition on the use of federal and local government funding of needle exchange programs. The Senate bill 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.

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 prohibiting 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. 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.

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 the District of Columbia appropriations. District officials cite the prohibition on the use of District funds as just another example of congressional intrusion into local matters. The District of Columbia Appropriations Act for FY2001, P.L. 106-522, includes 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 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. 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.

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.

The prohibition on the use of District and federal funds is included in the House, Senate, and conference versions of the District of Columbia Appropriations Act for FY2002, P.L. 107-96.

District of Columbia Anti-Terrorism Appropriations

The FY2002 District of Columbia Appropriations bill as approved by the Senate Appropriations Committee on October 11, 2001, and the House on September 25, 2001, included \$16 million in funding for emergency planning. The District's initial FY2002 budget request included a \$16 million federal payment specifically for costs associated with security support—including counter-terrorism and crowd control—for the IMF/World Bank meeting that was scheduled for late September 2001. The meeting, which has been postponed to a date to be determined, also was scheduled to receive \$17 million in funding from the IMF and World Bank for security support.

P.L. 107-96 includes a provision that reallocates the \$16 million special federal payment to emergency security planning activities in response to the September 11, 2001 terrorist attacks. The act allocates \$3.4 million as reimbursement to the District for costs associated with security planning for the World Bank/IMF meeting. Three additional budget items include funding that may be used to combat or respond to terrorist acts. However, funds for these operations are derived from local revenue sources: the Metropolitan Police Department; District of Columbia National Guard; and the District of Columbia Emergency Management Agency. Budget requests for these operations are identified in the following table. In addition, Congress appropriated \$1.4 billion in a special federal payment for the development and deployment of a wireless telecommunication system linking the District government, the U.S. Capitol Police, the U.S. Park Service Police, and the Secret Service.

Table 5. District of Columbia Federal and Local Appropriations That May Be Used to Respond to Terrorism Threats

Appropriation Title	FY2002 Budget Request (millions of dollars)
Metropolitan Police Department	6.8
D.C. National Guard	0.5
Emergency Security Planning	16.0
D.C. Emergency Management Agency	1.0

Congress provided additional assistance for emergency preparedness and terrorism response activities in the Department of Defense Appropriations for FY2002, P.L. 107-117. The act includes \$200 million in special federal payments to District of Columbia and selected regional agencies, including the Washington Council of Governments and the Washington Metropolitan Transit Authority, for emergency response-related activities. The Defense Appropriations Act for FY2002 was signed by the President on January 10, 2002.

**Table 6. FY 2002 Defense Appropriations Act, P.L. 107-117:
District of Columbia Emergency Preparedness Funds**

Activity	Appropriation (in millions)
Protective Clothing and Breathing Apparatus	\$7.1
Specialized Hazardous Materials Equipment	\$1.0
Chemical and Biological Weapons Preparedness	\$10.3
Pharmaceuticals for Responders	\$2.1
Response and Communications Capability	\$15.0
Search, Rescue, and Other Emergency Equipment and Support	\$8.9
Equipment, Supplies, and Vehicles for the Office of the Chief Medical Examiner	\$1.8
Hospital Containment Facilities for the Department of Health	\$8.0
Office of the Chief Technology Officer Communications System	\$45.5
Emergency Traffic Management	\$20.7

Activity	Appropriation (in millions)
Increased Facility Security	\$9.9
Training and Planning	\$25.5
Washington Metropolitan Area Transit Authority	\$39.1
Metropolitan Washington Council of Governments	\$5.0
Total	\$200.9

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 the Health Care Benefits Expansion Act. 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 would remove 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, has not been implemented because of a congressional prohibition first included in the general provisions of District of Columbia Appropriations Act for FY1994.

The city's health care expansion act would allow 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 would be 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 would 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 115 local governments, and more than 4,000 companies offer benefits to domestic partners.

On September 25, 2001, during House consideration of H.R. 2944, Representative 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 allows the District to use city, but not

federal, funds to implement the District of Columbia Employees Health Benefits Program.

Budget Reserves

Congress passed legislation in 1999 that required the District to create a \$150 million reserve fund to guard against unexpected expenditures undermining city finances.⁵ Reserve funds may only be expended under three conditions:

- Expenditures must be based on criteria established by the Chief Financial Officer and approved by the mayor, the city council, and the control board (during a control year); but in no case may funds be expended before all other surplus funds have been used.
- The funds may not be used for agencies under court-ordered receivership.
- Funds may not be for shortfalls in projected productivity savings and management reforms.

In 2000,⁶ and in addition to the budget reserve fund, Congress required the District to establish two additional funds: an emergency reserve fund; and a contingency reserve fund. These funds total 7% of the District's operating revenue, or about \$250 million, by 2007. The emergency reserve fund requires a 4% positive fund balance above the projected general fund expenditure level for the following year. The contingency fund would set aside up to 3% of each year's operating budget for unforeseen or nonrecurring needs such as natural disasters, federal mandates, and revenue shortfalls.

The District government requested that Congress eliminate the \$150 million budget reserve. A plan to abolish the fund was endorsed by the Senate Appropriations subcommittee on the District in June 2001. Consistent with the provisions found in the Senate-passed measure, the final—conference—version of act includes a provision that requires the District to maintain a budget reserve of \$120 million in FY2002, and \$70 million in FY2003. P.L. 107-96 also requires the District to maintain a cumulative cash reserve of \$50 million for FY2004 and FY2005.

⁵P.L. 106-113.

⁶P.L. 106-522.