

CRS Report for Congress

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Appropriations for FY2004: District of Columbia

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Eugene Boyd, Coordinator
Analyst in American National Government
Government and Finance Division

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 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 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 FY2004: District of Columbia

Summary

On February 3, 2003, the Bush Administration released its FY2004 budget recommendations. The Administration's proposed budget included \$420.5 million in federal payments to the District of Columbia. This includes \$166.5 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 \$163.8 million in support of court operations, and \$32 million for Defender Services. These three functions represent 86.3% of the President's proposed \$420.5 million in federal payments to the District of Columbia.

On July 9, 2003, the Bush Administration transmitted the city's \$5.7 billion proposed operating budget to Congress for its review and approval. In addition, the District requested \$916 million in special federal payments, including \$159 million for emergency preparedness assistance, \$75 million for public safety, \$42 million for public education, and \$18 million for human support services targeted primarily to improvements at the St. Elizabeth Hospital and substance abuse facilities.

On July 17, 2003, the House Appropriations Committee reported H.R. 2765, the District of Columbia Appropriations Act for FY2004 (H.Rept. 108-214). On September 9, 2003, the House approved H.R. 2765 by a vote of 210 to 206 (Roll Call Vote No. (491). The House bill recommended \$466 million in special federal payments for the District of Columbia. The bill includes \$17 million for a college tuition assistance plan, \$15 million for security planning, and \$163.1 million for court services and offender supervision. H.R. 2765 also includes \$10 million in special federal payments for a school choice program designed to provide financial assistance to families of District school age students attending private and parochial schools. The bill does not include \$48.7 million in funding for public education requested by the District.

On September 4, 2003, the Senate Appropriations Committee reported S. 1583 (S.Rept. 108-142). As reported, the bill would appropriate \$545 million in special federal payments to the District. This includes \$17 million for a college tuition assistance program; \$15 million for emergency planning and security; \$10 million for hospital bioterrorism preparedness; and \$377.5 million in court and criminal justice-related assistance, including \$172.1 million for court operations, \$32 million for Defender Services, and \$173.4 million for the Court Services and Offender Supervision Agency.

The House and Senate bills, as reported, would continue to allow the District to use its local funds to administer a domestic partners health insurance act approved by the city in 1992, prohibit the use of District or federal funds to prepare a medical marijuana ballot initiative, and restrict the use of federal or District funds for abortion services except in instance of rape or incest or a threat to the mother's health. The House bill would prohibit the use of local and federal funding for a needle exchange program, while the Senate bill would allow the use of District funds for such activities. This report will be updated as warranted.

Key Policy Staff

Area of Expertise	Name	CRS Division	Telephone
DC Education	David Smole	DSP	7-0624
DC Corrections	JoAnne O'Bryant	DSP	7-6819
DC Courts	Steve Rutkus	G&F	7-7162
DC Governance and Politics	Eugene Boyd	G&F	7-8689
DC Federal Fiscal Relations	Steve Maguire	G&F	7-7841
DC Oversight	Eugene Boyd	G&F	7-8689

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

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Appropriations for FY2004: District of Columbia

Most Recent Developments

On September 9, 2003, the House approved H.R. 2765, the District of Columbia Appropriations Act for FY2004, by a vote of 210 to 206 (Roll Call Vote 491). During consideration of the bill, the House approved, by a vote of 209 to 208, a school voucher program for the District of Columbia (H.Amdt. 368, Roll Call Vote No. 490). On September 4, 2003, the Senate Appropriations Committee reported S. 1583 (S.Rept. 108-142), its version of the District of Columbia Appropriations Act for FY2004. The Senate bill also includes funding for vouchers. The Senate bill would appropriate \$13 million for a voucher program, while the House bill includes \$10 million. The House Appropriations Committee reported H.R. 2765 (H.Rept. 108-214) on July 17, 2004. As passed by the House, H.R. 2765 recommends \$466 million in special federal payments to the District of Columbia, while S. 1583 recommends \$545 million in special federal payments.

The House bill would provided special federal payments for several education initiatives, including \$17 million for the District's College Tuition Assistance Program; \$10 million for the District of Columbia Scholarship Program, a school choice program intended to provide District schoolchildren access to private elementary and secondary schools; \$4.5 million for public school facilities for playground repair and replacement and window replacement; and \$2 million for the Family Literacy Program, which would be match by the District on a dollar for dollar basis. The Senate bill includes \$13 million for a school voucher program, \$17 million for the College Tuition Assistance Program, \$13 million for public school improvements, and \$13 million for public charter schools. In addition, H.R. 2765 recommends \$358.9 million for criminal justice and court-related activities, while S. 1583 would appropriate \$377.5 million for such activities.

Table 1. Status of District of Columbia Appropriations: FY2004

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conf. Report Approved		Public Law
House	Senate						House	Senate	
7/17/03	9/4/03	H.Rept. 108-214	9/9/2003	S.Rept. 108-142					

Budget Request

FY2004: The President's Budget Request

On February 3, 2003, the Bush Administration released its FY2004 budget recommendations. The Administration's proposed budget included \$420.5 million in federal payments to the District of Columbia.¹ A major portion of the President's proposed federal payments and assistance to the District involve the courts and criminal justice system. This includes \$166.5 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 \$163.8 million in support of court operations, and \$32 million for Defender Services. These three functions (court operations, defender services, and offender supervision) represent \$362.3 million, or 86.3% of the President's proposed \$420.5 million in federal payments to the District of Columbia (see **Table 2**).

FY2004: District's Budget Request

On June 3, 2003, District officials transmitted the city's \$5.7 billion budget for FY2004 to the President for review and approval. The proposed budget included a request for \$915.9 million in special federal payments. On July 9, 2003, the Bush Administration transmitted the city's budget to Congress for its review and approval. The city's proposed operating budget of \$5.7 billion includes a \$50 million cash reserve fund. In addition, the District's budget would decrease 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 activities. It would also decrease funding for general government support by \$19 million and human support services by \$92 million, while requesting \$18 million in special federal payments for human support services targeted to improvements at the St. Elizabeth Hospital and substance abuse facilities. The District also requested special federal payments of \$159 million for emergency preparedness assistance, \$75 million for public safety, and \$42 million for public education.

FY2004: 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

¹ U.S. Office of the President. *Budget of the United States Government, Fiscal Year 2004 Appendix* (Washington: GPO, 2002), pp. 1020-1021 and 10230-1032.

Committee approved a Section 302(b) suballocation of \$466 million in budget authority for FY2004 for the District of Columbia — about half the amount requested by the District. The Senate Appropriations Committee approved a Section 302(b) suballocation of \$545 million in budget authority for FY2004 for the District of Columbia. This is \$370 million less than requested by the city.

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.

House Version (H.R. 2765). On September 9, 2003, H.R. 2765, the District of Columbia Appropriations Act for FY2004, was approved by the House by a vote of 210 to 206 (Roll Call Vote No. 491). During its consideration of the bill, the House approved a controversial school voucher program. The House Appropriations Committee reported H.R. 2765 (H.Rept. 108-214) on July 17. In line with the Committee's recommendation, the House approved \$466 million in special federal payments for the District of Columbia. The bill includes \$17 million for a college tuition assistance plan, \$15 million for security planning, and \$163.1 million for court services and offender supervision. H.R. 2765 also includes \$10 million in special federal payments for a school choice program designed to provide financial assistance to families of District school-age students attending private and parochial schools. The \$10 million special federal payment is contingent on the passage of authorizing legislation. The bill also includes \$4.5 million for public school facilities for playground enhancements and window replacements. The bill does not include \$48.7 million in funding for public education requested by the District, including \$6 million for charter schools and \$20 million for special education students, facilities, and transportation.

FY2004 General Provisions. During the September 5, 2003, House floor debate on H.R. 2765, the House rejected an amendment (H.Amdt. 367) that would have deleted the proposed \$10 million special federal payment for a school voucher program. On September 9, 2003, the House approved an amendment (H.Amdt. 368), introduced by Rep. Tom Davis, that would authorize a school voucher program in the District of Columbia. In addition, as approved by the House, H.R. 2765 includes 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 (domestic partners program). The House bill retains a number of provisions that District officials want to eliminate or modify, including those related to medical marijuana, abortion, and needle exchange programs. For a summary and analysis of the general provisions contained in H.R. 2765, see CRS Report RL32045, *District of Columbia Appropriations Act for FY2004: Comparison of General Provisions of P.L. 108-7 and H.R. 2765*.

**Table 2. District of Columbia Special Federal Payment Funds:
Proposed FY2004 Appropriations**
(in millions of dollars)

Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
Federal Payments: General and Special Fund						
Resident Tuition Program	16.9	17.0	17.0	17.0	17.0	
Emergency Planning and Security	14.9	15.0	15.0	15.0	15.0	
Hospital Bioterrorism Preparedness	9.9	—	—	—	10.0	
— Children's National Medical Center decontamination facility	[4.9]	—	—	—	[7.0]	
— Wash. Hosp. Center decontamination facility	[4.9]	—	—	—	[3.0]	
D.C. Courts Operation	160.9	163.8	163.8	163.8	172.1	
— Court of Appeals	[8.4]	[8.8]	[8.8]	[8.8]	[8.8]	
— Superior Court	[80.8]	[83.4]	[83.4]	[83.4]	[83.4]	
— Court system	[40.1]	[40.0]	[40.0]	[40.0]	[40.0]	
— Capital improvements	[31.5]	[31.7]	[31.7]	[31.7]	[40.0]	
Defender Services	33.4	32.0	32.0	32.0	32.0	
— Guardian ad litem to abused and neglected children	[1.4]	—	—	—	—	
Court Services and Offender Supervision Agency for the District of Columbia ^a	153.7	166.5	166.5	163.1	173.4	
— Community Supervision and Sex Offender Registry	[95.1]	[103.9]	[103.9]	[100.5]	[110.8]	
— Public Defender Service	[22.9]	[25.2]	[25.2]	[25.2]	[25.2]	
— Pretrial Service Agency	[35.7]	[37.4]	[37.4]	[37.4]	[37.4]	
Criminal Justice Coordinating Committee	—	1.3	1.3	1.3	0.0	
Federal Water and Sewer Authority Payment	49.6	15.0	50.0	35.0 ^b	25.0	
Anacostia River Walk and Trail Construction	4.9	10.0	10.0	4.3	6.0	
Anacostia Waterfront Initiatives	—	—	31.5	—	—	
— Light Rail Anacostia Starter Line	—	—	[5.0]	—	—	
— Anacostia River Crossing & Freeway Study	—	—	[2.0]	—	—	

Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
— SW Waterfront Transportation Center	—	—	[1.5]	—	—	
— Heritage-Kingman Island Development Project	—	—	[20.0]	—	—	
Emergency Preparedness	—	—	158.9	—	—	
— Mission Critical Agencies	—	—	[28.0]	—	—	
— Cyberterrorism Containment	—	—	[8.0]	—	—	
— Info. Security Enhancement	—	—	[18.5]	—	—	
— Unified Comm. Center	—	—	[46.0]	—	—	
— Safe Routes Infrastructure	—	—	[15.0]	—	—	
— Traffic Signal Controllers	—	—	[41.0]	—	—	
— Remote Live Television	—	—	[2.4]	—	—	
Public Safety	—	—	75.0	—	—	
Human Support Services	—	—	18.2	—	—	
— St. Elizabeth Campus	—	—	[8.0]	—	—	
— Family Court Liaison	—	—	[0.23]	—	—	
— Substance Abuse Residential Treatment Fac.	—	—	[10.0]	—	—	
Capital Infrastructure Develop.	10.1	—	50.0	—	5.0	
— Eastern Mkt. Renov.	[0.15]	—	—	—	—	
— Unified Comm. Center for Regional Emergencies and other activities	[9.9]	—	— ^c	8.0	[5.0] ^c	
D.C. Public Schools/Education	2.9	—	42.7	4.5	40.0	
— Public school improv.	—	—	—	—	[13.0]	
— Literacy Program	— ^d	—	[4.0]	—	—	
— Special Education Satellite Facilities	[2.9]	—	[6.0]	—	—	
— Special Education Transportation	—	—	[5.0]	—	—	
— Special Education Students	—	—	[9.0]	—	—	
— McKinley Technology High School	—	—	[7.0]	—	—	
— Early Childhood Education	—	—	[2.0]	—	—	
— Y Care Program	—	—	[2.0]	—	—	

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Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
— Excel Institute	— ^d	—	[1.25]	—	—	
— Children's Youth Orchestra	—	—	[0.2]	—	—	
— UDC Saturday Academy	—	—	[0.25]	—	—	
— Credit Enhancement Revolving Fund	— ^e	—	—	—	—	
— Playground Repair and Window Replacement	—	—	—	[4.5]	—	
D.C. Public Charter School	16.9	—	6.0	—	13.0	
— Pupil allocation supplement	[3.9]	—	—	—	—	
— Charter school improvements loan fund	[4.9]	—	—	—	[8.0]	
— City Build Charter School Initiative	—	—	—	—	[5.0]	
— Credit enhancement revolving fund	[7.9]	—	—	—	—	
School Choice Scholarship Program (vouchers)	—	— ^f	—	10.0 ^g	13.0	
— admin. expenses					[1.0]	
Family Literacy Program	3.9	—	—	2.0 ^b	—	
Public Works Transportation. Management System Initiatives	0.9	—	—	—	—	
Transportation	—	—	78.0	—	3.5	
— Transit Oriented Enticement Fund	—	—	[25.0]	—	—	
— WMATA Capital Fund	—	—	[50.0]	—	[3.0]	
— Downtown Circulator	—	—	—	—	[0.5]	
— Bus Rapid Transit Study	—	—	[3.0]	—	—	
Children's National Medical Ctr. construction of neo-natal center	—	—	—	—	10.0	
Foster Care Improvements	—	—	—	—	14.0	
— Child and Fam. Services	—	—	—	—	[9.0]	
— Early intervention unit	—	—	—	—	[2.0]	
— Emer. support fund	—	—	—	—	[1.0]	
— Social worker loan repayment	—	—	—	—	[3.0]	
— Computer upgrades	—	—	—	—	[3.0]	
— Mental Health Assessmts.	—	—	—	—	[3.9]	

Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
— COG's Respite Care and Recruitment	—	—	—	—	[1.1]	
CFO	40.5	—	—	10.0	20.0 ^h	
— Amer. Univ. Women & Politics Institute	[0.05]	—	—	—	—	
— Project Reality	[0.1]	—	—	—	—	
— Friends of Ft. Dupont	[0.1]	—	—	—	—	
— Congressional Cemetery	[0.1]	—	—	—	—	
— Cap. Children's Museum	[0.15]	—	—	—	—	
— KidBiz 3000	[0.15]	—	—	—	—	
— Nat. Maritime Heritage	[0.2]	—	—	—	—	
— Voyager Expanded Learning Literacy	[2.0]	—	—	—	—	
— Best Friends Foundation	[0.25]	—	—	—	—	
— National Music Center and Museum Foundation	[0.25]	—	—	—	—	
— National Council of Negro Women	[0.25]	—	—	—	—	
— Wash. Opera Edu.	[0.25]	—	—	—	—	
— Wash. Lab School	[0.25]	—	—	—	—	
— Cong. Glaucoma Caucus	[0.25]	—	—	—	—	
— Perry School Community Service Center	[0.25]	—	—	—	—	
— Safe Kids Coalition	[0.27]	—	—	—	—	
— International Youth Service and Dev. Corps.	[0.3]	—	—	—	—	
— Public Access Channel Future Producers Program	[0.3]	—	—	—	—	
— Criminal Justice Coordinating Council	[0.3]	—	—	—	—	
— Tech. Innovation and Learning Lab	[0.3]	—	—	—	—	
— Close Up Foundation	[0.4]	—	—	—	—	
— Values First training	[0.25]	—	—	—	—	
— Excel Institute & National Center for Manufacturing Sciences Job Training	[0.35]	—	—	—	—	
— Excel Institute Adult Education Program	[0.4]	—	—	—	—	

Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
— Excel Institute for operational expenses	[1.25]	—	—	—	—	
— City Museum	[0.5]	—	—	—	—	
— Teach for America	[0.4]	—	—	—	—	
— National Negro College Fund	[0.5]	—	—	—	—	
— Amer. Cities Foundation education clearinghouse	[0.5]	—	—	—	—	
— Emergency Management, Inc. evacuation planning	[0.5]	—	—	—	—	
— G. Washington Univ. Risk Management and Univ of New Orleans Hazards Assessment	[0.5]	—	—	—	—	
— Capitol City Career Development and Job Training	[0.5]	—	—	—	—	
— Washington Center for Best Practice College Awareness Program	[0.5]	—	—	—	—	
— Caribbean Amer. Mission for Edu. Research	[0.5]	—	—	—	—	
— Comm. Youth Connection	[0.5]	—	—	—	—	
— Wash. CoG Housing Trust Fund	[0.5]	—	—	—	—	
— Eisenhower Foundation Carver Terrace Initiative	[0.5]	—	—	—	—	
— Good Samaritan Found.	[0.5]	—	—	—	—	
— Reach for Tomorrow	[0.5]	—	—	—	—	
— Metro Police Secures Program	[0.5]	—	—	—	—	
— Institute for Responsible Fatherhood	[0.5]	—	—	—	—	
— Second Chance Employ. Service for Women	[0.6]	—	—	—	—	
— Real World Schools	[1.0]	—	—	—	—	
— Whitman Walker Clinic	[1.0]	—	—	—	—	
— Washington CoG Regional Incident Comm. and Coordination	[1.0]	—	—	—	—	
— Council of Court Excellence	[1.0]	—	—	—	—	

Programs	Enacted FY2003	FY2004				
		Admin.	City's Budget	House Approp. Comm.	Senate Approp. Comm.	Conf.
— Green Door (assist residents w/ mental illness)	[1.0]	—	—	—	—	
— Active Cap River Cleanup	[1.0]	—	—	—	—	
— Covenant House	[1.22]	—	—	—	—	
— Seed Foundation Charter School	[2.0]	—	—	—	—	
— National Institute for Manufacturing Sciences for infrastructure vulnerability assessment	[2.0]	—	—	—	—	
— St. Coletta expansion	[2.0]	—	—	—	2.0 ⁱ	
— Nat. Hist. Trust Lincoln Cottage Restoration	[2.35]	—	—	—	—	
— Canal Park Dev. Assoc.	[2.5]	—	—	—	—	
— Children's National Medical Center	[5.0]	—	—	—	—	
Potomac Southwest Waterfront	2.3	—	—	—	—	
Lorton Asbestos Remediation	0.993	—	—	—	—	
Capital Improvements for Fire and Emer. Med. Services Dept.	1.9	—	—	—	—	
Total federal payments	508.7	420.6	915.9	466.0	545.0	

Source: H.Rept. 108-214.

Note: The amount included in [] is a component part of the preceding unbracketed amount.

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

^b District must provide a 100% match of federal funds.

^c City requested \$46 million as part of a special federal payment for Emergency Preparedness. Senate bill provides for a stand-alone appropriation for FY2004.

^d Funds administered under the CFO account.

^e Funded under separate account for public charter schools.

^f Administration has requested funding for a similar program within the Labor, Health and Human Services, Education and Related Agencies Appropriations Act for FY2004.

^g Subject to passage of authorizing legislation.

^h Notes the funds are to be used for education, security, economic development and health initiatives, but does not specify recipients of funds in the bill or its accompanying report.

ⁱ Funded in FY2003 under CFO account. FY2004 funded under a separate account.

Table 3. District of Columbia General Funds for FY2004
(in millions of dollars)

Programs	Enacted FY2003	FY2004			
		District	House	Senate	Conf.
Division of Expenses: District of Columbia Funds					
GENERAL FUND					
Governmental Direction and Support	303.673	284.415	284.415	284.415	
Economic Development and Regulation	244.358	276.647	276.647	276.647	
Public Safety and Justice	622.531	745.958	745.958	745.958	
Public Education System	1,206.169	1,157.841	1,157.841	1,157.841	
Human Support Services	2,451.818	2,360.067	2,360.067	2,360.067	
Public Works	320.357	327.046	327.046	327.046	
Workforce Investments	48.186	22.308	22.308	22.308	
Cash Reserve Fund	0.000	50.000	50.000	50.000	
Emer. and Contingency Reserve Fund	70.000	0.000	0.000	0.000	
Emergency Planning and Security Costs	14.903	0.000	0.000	0.000	
Repayment of Loans and Interest	260.951	311.504	311.504	311.504	
Repayment Gen. Fund Recovery Debt	39.300	0.000	0.000	0.000	
Pay Interest on Short Term Borrowing	1.000	3.000	3.000	3.000	
Wilson Building	4.194	3.704	3.704	3.704	
One Judiciary Square Certificate of Participation	7.950	4.911	4.911	4.911	
Nondepartmental Agency	5.799	19.639	19.639	19.639	
Pay-As-You-Go Capital	0.000	11.267	11.267	11.267	
Settlements and Judgements	22.822	22.522	22.522	22.522	
Tax Increment Financing Program	0.000	1.940	1.940	1.940	
Medicaid Disallowance	0.000	57.000	57.000	57.000	
Emergency Planning and Security	15.000	0.000	0.000	0.000	
Scholarship Program	0.000	0.000	0.000	0.000	
General Fund Total Operating Expenses	5,624.108	5,659.769	5,659.769	5,659.769	

Programs	Enacted FY2003	FY2004			
		District	House	Senate	Conf.
ENTERPRISE FUNDS					
Water and Sewer Auth.	253.743	259.059	259.059	259.059	
Washington Aqueduct	57.847	55.553	55.553	55.553	
Stormwater Permit Compliance	3.100	3.501	3.501	3.501	
Lottery and Charitable Games	232.881	242.755	242.755	242.755	
Sports and Enter. Commission	20.477	13.979	13.979	13.979	
DC Retirement Board	13.388	13.895	13.895	13.895	
Convention Center Enterprise Fund	78.700	69.742	69.742	69.742	
National Capital Revitalization Corporation	6.745	7.849	7.849	7.849	
Total Enterprise Funds	666.914	666.369	666.369	666.369	
Total Operating Expenses	6,291.022	6,326.138	6,326.138	6,326.138	
CAPITAL OUTLAY					
General Fund	670.520	904.913	904.913	904.913	
Water and Sewer Fund	342.458	199.807	199.807	199.807	
Total Capital Outlays	1,012.978	1,104.720	1,104.720	1,104.720	
Total District of Columbia Funds	7,304.000	7,430.858	7,430.858	7,430.858	

Source: H.Rept. 108-214.

Key Policy Issues

Needle Exchange

Whether to continue a needle exchange program funded with federal or District funds is one of several key policy issues that Congress will likely consider when reviewing the District's appropriations for FY2004. 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 the government sanctioning 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 it 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 it prohibits the use of both District and federal funds for such activities. At present, 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. H.R. 2765, however, would continue to prohibit the use of both District and federal funds for needle exchange programs. The Act would allow the use of private funds for needle exchange programs and would require private and public entities that receive federal or District funds in support of other activities or programs to account for the needle exchange funds separately. S. 1583 would prohibit only the use of federal funds for a needle exchange program and would allow the use of District 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 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.² 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

² *Turner v. District of Columbia Board of Elections and Ethics*. No. 98-2634 Civ. (D.D.C. Sept. 17, 1999; memorandum opinion).

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 such congressional 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's 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 appropriations 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.³ 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 ruling of the lower court without comment. The appeals court issued its ruling on September 19, 2002, which was the deadline for printing ballots of the November 2002 general election.

H.R. 2765 and S. 1583 include 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

³ *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.

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 were 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.⁴ 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.⁵

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.

H.R. 2765 and S. 1583 would continue to restrict the use of District and federal funds for abortion services except in cases of rape or incest, or when the life of the mother is endangered. This is consistent with provisions included in the House and Senate versions of the District of Columbia Appropriations Act for FY2003, P.L. 108-7.

⁴ "District Policies Hit Hard in Spending Bill," *Congressional Quarterly Almanac*, vol. XLIV (Washington: Congressional Quarterly, Inc., 1988), p. 713.

⁵ "D.C. Bill Vetoed Twice Over Abortion Funding," *Congressional Quarterly Almanac*, vol. XLV (Washington: Congressional Quarterly, Inc., 1989), p. 757.

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.⁶ 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 cohabiting, 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 visiting 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 maintain that it devalues 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.⁷

⁶ On September 20, 2001, the House Appropriations Committee approved, by a vote of 28 to 21, an amendment introduced by Reps. 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, Rep. 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.

⁷ Human Rights Campaign Foundation, "Frequently Asked Questions on Domestic Partners Benefits: Employers that Offer Domestic Partners Benefits," at [<http://www.hrc.org/worknet/dp/index.asp>], visited September 25, 2002.

H.R. 2765 and S. 1583, consistent with the provision first included in the District's FY2002 Appropriations Act, include a general provision that allows the use of District funds to administer the program during FY2004.

Elementary and Secondary Education

During the FY2004 appropriations process, key policy issues have emerged in the areas of special education, public charter schools, and school choice.

Special Education. The District's special education program has long been characterized as ineffective and inefficient.⁸ 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 a student's referral and assessment increase 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)⁹ or the Rehabilitation Education Act,¹⁰ from 50 days to 120 days.¹¹ P.L. 108-7, the Consolidated Appropriations Act for FY2003, deleted the 120-day special education evaluation and placement time period provision included in previous appropriations acts.

In addition, the FY1999 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.

⁸ Deficiencies in the DCPS special education programs and activities have been documented in the following sources: a five-part series of *Washington Post* articles published from February 16 to February 20, 1997; a September 27, 2000, report to U.S. District Court Judge Friedman by a court-appointed special master for special education on issues in special education; and a civil action (*Blackman v. District of Columbia*, Civil Action No. 97-1629) that resulted in the appointment of a special master for special education. In April 1999 the city council created "a special committee to investigate systematic flaws in the delivery of special education services, spending patterns, allegations of mismanagement, structural inadequacies, and the failure to timely assess and place students in the District of Columbia Special Education Program" (PR 13-113).

⁹ 20 U.S.C. 1401(a)(1)

¹⁰ 29 U.S.C. 706(8).

¹¹ P.L. 105-277, Section 141.

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.¹² 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 FY2001.¹³ Copies of the GAO reports cited above may be obtained at the GAO website.¹⁴

The District of Columbia Appropriations Act for FY2003, P.L. 108-7, limits to \$4,000 the amount of appropriated funds that may be used to pay attorney's fees for actions brought against the DCPS under the IDEA. The \$4,000 limit includes fees for attorneys representing students and those defending the DCPS. 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.

H.R. 2765 and S. 1583 would continue to limit attorney's fees in IDEA cases to \$4,000, and would continue to require attorneys in such cases to disclose any interest in or relationship with any special education diagnostic services or schools to which the attorney may have referred any client.

Charter Schools. Charter schools are public schools that operate independently of traditional local public school systems under a charter granted by a public entity. The 104th Congress authorized the establishment of charter schools in the District of Columbia, under the District of Columbia School Reform Act of 1995 (P.L. 104-134). Under the District of Columbia's charter school law, charters may be granted by either the District of Columbia Board of Education or the District of Columbia Public Charter School Board. In accordance with requirements implemented under P.L. 104-134, both DCPS schools and public charter schools are funded on a per-pupil basis according to a uniform per student funding formula (UPSFF). During the 2003-2004 school year, 41 public charter schools are operating in the District of Columbia, enrolling over 11,750 students.¹⁵

¹² P.L. 107-96, Section 140(b).

¹³ P.L. 107-96, Section 141.

¹⁴ 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).

¹⁵ Government of the District of Columbia. Education Center. Available at: [http://dcschoolsearch.dc.gov/education/schools/school_listing.asp?canned=1].

The District of Columbia Appropriations Act for FY2003, P.L. 108-7, included several provisions in support of the public charter school movement in the District of Columbia. The Act appropriated \$16.9 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 established the Office of Public Charter School Financing and Support and amended the District of Columbia School Reform Act of 1995 to establish the Charter School Fund. The act also included a provision directing the General Accounting Office to provide a detailed analysis of District and nationwide efforts to establish adequate charter schools facilities.¹⁶ These provisions were intended to address major issues confronting charter schools in the city — finding, financing, and renovating adequate facilities.

For FY2004, District officials have requested \$6 million in federal special payments for charter schools. H.R. 2765, as reported by the House Committee on Appropriations, does not include any additional funding for District of Columbia charter schools for FY2004. S. 1583, as reported by the Senate Committee on Appropriations, would provide \$13 million for public charter schools in the District of Columbia as part of a \$40 million federal payment for school improvement.¹⁷ The charter school component includes \$8 million for the Direct Loans Fund for Charter School Improvement established under P.L. 108-7 and \$5 million for a new “City Build” charter school initiative. The City Build charter school initiative would help create five new charter schools in city neighborhoods that are in need of development.

School Voucher Program. In its FY2004 budget submission, the Bush Administration requested \$75 million for a Choice Incentive Fund that would provide competitive awards to states, local educational agencies (LEAs), and community based organizations (CBOs) that expanded opportunities for parents of children who attend low-performing schools to attend higher-performing public schools (including charter schools) and private schools. Under the administration’s proposal, a portion would be reserved for school choice programs in the District of Columbia.

On May 1, 2003, Mayor Anthony Williams endorsed a Bush Administration school choice initiative intended to provide scholarships to assist eligible District schoolchildren to attend private elementary and secondary schools. The mayor’s endorsement followed that of Peggy Cafritz, President of the District of Columbia Board of Education, who announced her support for vouchers in a *Washington Post* editorial on March 29, 2003.¹⁸ The mayor and board of education president endorsed

¹⁶ This report was recently released. See United States General Accounting Office. *Charter Schools: New Charter Schools across the Country and in the District of Columbia Face Similar Start-Up Challenges*. GAO-03-899. September 2003.

¹⁷ S.Rept. 108-142. District of Columbia Appropriations Bill, 2004. Under the federal payment for school improvement in the District of Columbia, \$40 million would be appropriated as follows: \$13 million for a scholarship program for low-income children in under-performing schools; \$13 million for charter schools; \$13 million for school improvement in DCPS; and \$1 million for administrative expenses.

¹⁸ Peggy Cooper Cafritz, “Making the Most of Vouchers,” *Washington Post*, March. 29, (continued...)

the concept of private school vouchers as a means of improving educational options for District public-school children and transforming the city's faltering public schools. Local supporters of a voucher program insist that it must be federally funded and must not reduce funding for the city's traditional public schools and public charter schools.

The mayor's support of a voucher program has been criticized by the city's Delegate to Congress, Eleanor Holmes Norton, who characterized the Bush Administration proposal as an affront to home rule.¹⁹ Opponents of the voucher program contend that it will drain needed funds from public education and will be of minimal benefit to the majority of District school children. While the U.S. Supreme Court has ruled in *Zelman v. Simmons-Harris* that the Constitution permits public funding of school vouchers for attendance at religiously affiliated schools in instances where parents have the opportunity of selecting from a range of options that includes public and private secular schools, many still object to allowing public funds to be used to pay tuition for attendance at religiously affiliated schools.²⁰

On July 10, 2003, the House Committee on Government Reform passed H.R. 2556, the DC Parental Choice Incentive Act of 2003, by a vote of 22 to 21. The bill would authorize the establishment of a federal competitive grant program in which the Secretary of Education would award grants for the operation of a scholarship program to enable children from low-income families in the District of Columbia to attend private elementary or secondary schools located in the District of Columbia. Under the program, students who are residents of the District of Columbia and who are from families with incomes not exceeding 185 percent of the poverty line could apply for scholarships valued at up to \$7,500 per academic year. The program would be authorized at \$15 million for FY2004 and such sums as necessary through FY2008.²¹

On July 17, 2003, House Committee on Appropriations reported H.R. 2765, which would authorize a special federal payment of \$10 million for a school choice program in the District of Columbia, subject to the program's authorization.²² On September 5, 2003, during floor debate on H.R. 2765, the House considered two school voucher-related amendments to the bill. Delegate Norton introduced H.Amdt. 367, which would have deleted from the bill the proposed \$10 million to fund the school choice program. The amendment failed to pass by a vote of 203 to 203 (Roll

¹⁸ (...continued)
2003, p. 17.

¹⁹ Craig Timberg and Justin Blum, "Mayor Endorses Vouchers in D.C.; Norton Criticizes Statement as 'Selling Out' Home Rule," *Washington Post*, May 2, 2003, p. A1.

²⁰ For a discussion of church-state constitutional issues surrounding vouchers, see CRS Report RL30165, *Education Vouchers: Constitutional Issues and Cases*, by David M. Ackerman.

²¹ For a detailed analysis of policy issues surrounding the District school voucher proposal, see CRS Report RL32019, *The DC Parental Choice Incentive Act of 2003: Policy Issues and Analysis*, by David P. Smole.

²² H.Rept. 108-214.

Call Vote No. 479). The House approved by a vote of 209 to 206 (Roll Call Vote No. 490) an amendment offered by Representative Tom Davis. H.Amdt. 490 would authorize a school voucher program in the District of Columbia for students whose family income does not exceed 185% of the federal poverty level. Students will be eligible for up to \$7,500 in funds to attend a private elementary or high school in the District.

On September 4, 2003, the Senate Committee on Appropriations reported S. 1583, which would authorize \$13 million for a school voucher program as part of a \$40 million federal payment for school improvement in the District of Columbia.²³ Title II of S. 1583 would authorize the DC Student Opportunity Scholarship Act of 2003 for five years. The bill would provide scholarship funds to low-income parents — parents whose incomes do not exceed 185% of the federal poverty level — of children attending underperforming public schools. Grant funds would be awarded on a competitive basis to eligible entities, including the District of Columbia government, a nonprofit organization, or a consortium of nonprofit organizations, to administer the program. The act would limit annual scholarship amounts to \$7,500 per pupil. It would prohibit an eligible entity or participating school from discriminating against program participants or applicants on the basis of race, color, national origin, religion, or sex, but it would allow students to attend religious-based and single-sex private schools.

²³ S.Rept. 108-142.