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District of Columbia: FY2006 Appropriations

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District of Columbia: FY2006 Appropriations

Summary

On February 8, 2005, the Bush Administration released its FY2006 budget request. The Administration's proposed budget includes \$573.4 million in federal payments to the District of Columbia. Four payments (for court operations, defender services, offender supervision, and criminal justice coordination) represent \$471.4 million, or 82%, of the President's proposed \$573.4 million in total federal payments to the District of Columbia.

On June 2, 2005, the District's city council approved the city's \$8.8 billion operating budget for FY2006. The District's budget, which must be approved by Congress, also includes \$2.7 billion in capital outlays, including \$535 million to finance a new baseball stadium. In addition, the District's budget includes a request for \$635 million in special federal payments. This is \$62 million more than the \$573.4 million proposed by the President and \$32 million more than the amount recommended by the House Appropriations Committee when it reported H.R. 3058 — a bill providing FY2006 appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies (TTHUD) on June 21, 2005.

H.R. 3058 was approved by the House on June 30, 2005. It would provide \$603 million in special federal payments to the District, including \$75 million in special federal payments in support of elementary, secondary, and post-secondary education initiatives. These include \$13.525 million in special federal assistance to improve the city's public schools, \$13.525 million in support of public charter schools, and \$14.566 million in assistance in support of scholarships to private and religious schools. In addition, the bill would appropriate \$33.2 million for the District's college tuition assistance program, a proposed increase of \$7.8 million more than appropriated in FY2005. H.R. 3058 also would provide \$20 million in special federal payments to the District's Chief Financial Officer for various, but unspecified, education, recreation, cultural, health services, social services, and economic development activities to be administered by third parties.

In addition to recommending \$603 million in special federal payments to the District of Columbia, H.R. 3058 contains a number of general provisions, including several so-called "social riders." Consistent with provisions included in previous appropriations acts, the bill would prohibit the use of federal and District funds to finance or administer a needle exchange program intended to reduce the spread of AIDS and HIV; or for abortion services except in an instance of rape or incest, or when the life of the mother is threatened. The bill also would prohibit the city from decriminalizing the use of marijuana for medical purposes; it would prohibit the District from enforcing a section of its gun control laws that requires registered owners of handguns to keep such weapons unloaded, disassembled, or trigger-locked in their homes; and it would limit the city's ability to use District funds to lobby for congressional voting representation. This report will be updated as events warrant.

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District of Columbia: FY2006 Appropriations

Most Recent Developments

On June 30, 2005, the House approved its version of the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act for FY2006 (TTHUD), H.R. 3058. The bill would appropriate \$603 million in special federal payments to the District of Columbia. As approved by the House, the bill includes \$41.6 million in special federal payments in support of elementary and secondary school education, including \$13.525 million for public school improvements, \$13.525 million for public charter schools, and \$14.566 million for vouchers to fund scholarship assistance to private and religious elementary and secondary schools. The bill also increases the federal contribution to the city's college tuition assistance program to \$33.2 million from the \$25.4 million approved for FY2005.

Table 1. Status of District of Columbia Appropriations, FY2006

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conf. Report Approved		Public Law
House	Senate						House	Senate	
7/21/05		109-153	6/30/05 (405-18)						

Budget Request

FY2006: The President's Budget Request

On February 8, 2005, the Bush Administration released its FY2006 budget request. The Administration's proposed budget includes \$573.397 million in federal payments to the District of Columbia. A major portion of the President's proposed federal payment is for the District's courts and criminal justice system.¹ This includes \$221.693 million in support of court operations, \$45 million for Defender Services, and \$203.388 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. The Administration also requested \$1.3 million for the Criminal Justice Coordinating Council. These four functions (court operations, defender-related services, offender supervision, and criminal justice coordination)

¹ U.S. Office of the President, *Budget of the United States Government, Fiscal Year 2006 Appendix* (Washington: GPO, 2002), pp. 1133-1135 and 1137-1150.

represent \$471.381, or 82%, of the President's proposed \$573.397 million in federal payments to the District of Columbia. The President's budget request also includes \$74.8 million in support of elementary and secondary education, and college tuition assistance (see **Table 2**). This represents 13% of the Administration's proposed federal payments to the District. Additionally, the Administration requested \$22.2 million for security planning and bioterrorism preparedness, which represents approximately 5% of its total special federal payments budget request (see **Table 2**).

FY2006: District's Budget Request

On June 2, 2005, the District's city council unanimously approved the city's \$8.8 billion operating budget for FY2006, and forwarded it to the President for review, approval, and transmittal to Congress.² The proposed budget includes a request for \$635.197 million in special federal payments. The proposed budget would increase local funding for public education by \$206 million (see **Table 3**), while seeking \$41.616 million in special federal payments for public schools (\$13.525 million), charter schools (\$13.525 million), and school vouchers (\$14.566 million) (see **Table 2**). The proposed budget would also increase local funding for economic development and regulation by \$111.1 million and human support services by \$286.8 million (see **Table 3**).

The District has also requested \$33.2 million in a special federal payment for the District's college tuition assistance program, a proposed increase of \$7.8 million above the federal government's FY2005 commitment.³ In addition, the District requested \$2 million for a downtown transit circulator system, and \$40 million in special federal payments to support security and emergency preparedness activities, including \$25 million for bioterrorism preparedness, and \$15 million for emergency planning and security.

FY2006: Section 302(b) Suballocation

Section 302(a) of the Congressional Budget Act of 1974 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 requires appropriations committees in the House and Senate to subdivide their Section 302(a) allocation of budget authority and outlays among the 10 appropriations subcommittees in the House and the 12 appropriations subcommittees in the Senate. On May 18, 2005, the House Appropriations Committee approved a Section 302(b) suballocation of \$85.922 billion in budget authority for FY2006 to be allocated among the various programs

² Section 446 of the District of Columbia Self-Government and Government Reorganization Act, P.L.93-198, as amended in 1989, requires a budget approved by the mayor and city council of the District of Columbia to be submitted to the President for transmittal to Congress.

³ See CRS Report RS20646, *District of Columbia Tuition Assistance Program*, by Bonnie Mangan.

and activities within the jurisdiction of the TTHUD Subcommittee (H.Rept. 109-85).⁴ The Senate Appropriations Committee allocated \$593 million in budget authority for the District of Columbia Subcommittee (S.Rept. 109-77). It approved its Section 302(b) suballocations on June 9, 2005.

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 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 Bill. On June 15, 2005, a House appropriations subcommittee conducted a markup of the TTHUD for FY2006 and forwarded the unnumbered bill to the full Appropriations Committee for its consideration. On June 21, 2005, the House Appropriations Committee ordered reported H.R. 3058, which included \$603 million in special federal payments for the District of Columbia. As reported by the committee, the bill recommends \$33.2 million for the city's college tuition assistance program, a \$7.8 million increase above the program's FY2005 funding level. The bill also includes \$41.616 million in special federal payments in support of continued efforts to strengthen public schools and expand elementary and secondary education choices, including funds for public charter schools and private school scholarships. The bill includes \$22.2 million in support of security planning (\$15 million) and bioterrorism preparedness (\$7.2 million for bioterrorism and forensic laboratory). It does not include a District request for \$10 million for fire and emergency medical facilities and special operations, but it does continue congressional support (\$5 million) for the construction of a nature trail along the Anacostia River.

House Bill General Provisions. H.R. 3058 includes several provisions that District officials want to eliminate or modify, including those related to medical marijuana, abortion, needle exchange, and gun control. During consideration of past District of Columbia appropriations acts, city officials have asked Congress to eliminate the provision banning the use of medical marijuana. District officials have also sought to win congressional approval for the lifting of restrictions on the use of District funds for abortion services, and the removal of the provision prohibiting the use of federal or District funds in support of a needle exchange program. However, as approved by the House, H.R. 3058 would continue to maintain the restrictions and prohibitions on the use of federal and District funds for medical marijuana, abortion

⁴ Prior to the 109th Congress, appropriations for the District of Columbia were handled by a separate subcommittee. At the beginning of the 109th Congress, the House restructured the appropriation subcommittees, abolishing the District of Columbia Subcommittee on Appropriations and consolidating its activities into a larger Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Subcommittee. The Senate undertook a similar restructuring, but kept the District of Columbia Subcommittee as a stand-alone subcommittee.

services, and needle exchange programs. Congress's authority to ban the use of medical marijuana, including the implementation of the District's medical marijuana initiative, was upheld by a June 6, 2005, Supreme Court decision. By a vote of six to three, the Supreme Court ruled in *Gonzales v. Raich*⁵ that the federal government could prohibit the possession and cultivation of marijuana in states that have decriminalized its use as a medical or therapeutic treatment. The bill also includes a provision prohibiting the use of District funds to enforce existing District gun control provisions requiring all legally registered handguns kept at home to be unloaded, disassembled, or trigger-locked.

**Table 2. District of Columbia Special Federal Payments Funds:
FY2006 Appropriations**
(in millions of dollars)

Programs	Enacted FY2005	FY2006				
		Admin.	City's Budget	House	Senate	Conf.
Resident Tuition Program	25.395	33.200	33.200	33.200		
Emergency Planning and Security	14.880	15.000	15.000	15.000		
Bioterrorism Preparedness and Forensic Laboratory	7.936	7.200	25.000	7.200		
Court Operations	189.274	221.693	221.693	221.693		
— Court of Appeals	[8.881]	[9.198]	[9.198]	[9.198]		
— Superior Court	[84.268]	[87.342]	[87.342]	[87.342]		
— Court system	[40.373]	[41.643]	[41.643]	[41.643]		
— Capital improvements	[55.752]	[83.510]	[83.510]	[83.510]		
Defender Services	38.192	45.000	45.000	45.000		
Court Services and Offender Supervision Agency for the District of Columbia ^a	178.560	203.388	203.388	203.388		
— Community Supervision and Sex Offender Registry	[109.966]	[131.360]	[131.360]	[131.360]		
— Public Defender Service	[29.594]	[29.833]	[29.833]	[29.833]		
— Pretrial Service Agency	[38.999]	[42.195]	[42.195]	[42.195]		
Criminal Justice Coordinating Council	1.290	1.300	1.300	1.300		
Federal Water and Sewer Authority Payment	4.762	0.000	30.000	10.000		
Anacostia River Walk and Trail Construction	2.976	5.000	5.000	5.000		
Fire and Emergency Medical Facilities and Special Operations	0.000	0.000	10.000	0.000		
Family Literacy Program	0.992	0.000	2.000	0.000		
Transportation	2.480	0.000	0.000	0.000		
— WMATA Capital Fund	[1.489]	0.000	0.000	0.000		

⁵ *Gonzales v. Raich* 545 U.S. (2005).

Programs	Enacted FY2005	FY2006				
		Admin.	City's Budget	House	Senate	Conf.
— Downtown Circulator	[0.992]	0.000	2.000	0.000		
Unified Comm. Center for Reg. Emergencies and other activities	5.952	0.000	0.000	0.000		
Foster Care Improvements	4.960	0.000	0.000	0.000		
— Child and Fam. Services	[3.224]	0.000	0.000	0.000		
— Early intervention unit	[1.984]	0.000	0.000	0.000		
— Emer. support fund	[0.744]	0.000	0.000	0.000		
— Computer upgrades	[0.496]	0.000	0.000	0.000		
— Mental Health Assess.	[1.240]	0.000	0.000	0.000		
— COG's Respite Care and Recruitment	[0.496]	0.000	0.000	0.000		
Public School Library Improvements	5.952	0.000	0.000	0.000		
School Improvement Initiatives	39.680	41.616	41.616	41.616		
— Public school improvements	[12.896]	[13.525]	[13.525]	[13.525]		
— High Performing Schools	[1.984]	0.000	0.000	0.000		
— Transformation Schools	[1.984]	0.000	0.000	0.000		
— School Grants and Mgmt/Consult. Services	[8.928]	0.000	0.000	0.000		
Public Charter School	[12.896]	[13.525]	[13.525]	[13.525]		
— City Build Initiative (n/hood-based charter schools)	[1.984]	0.000	0.000	0.000		
— Direct Loan Fund	[2.728]	0.000	0.000	0.000		
— Admin. Expenses for Outreach	[0.149]	0.000	0.000	0.000		
— Charter School Incubator	[3.968]	0.000	0.000	0.000		
— High Performing Schools	[1.984]	0.000	0.000	0.000		
— Public Charter School Assoc.	[0.099]	0.000	0.000	0.000		
— Public Charter School College Preparatory Program	[2.083]	0.000	0.000	0.000		
School Choice Scholarship Program (vouchers)	[12.896]	[14.566]	[14.566]	[14.566]		
— admin. expen./assessment	[0.992]	0.000	[1.000]	[1.000]		
CFO	32.240	0.000		20.000		
— audit of funding recipients	[0.992]	0.000				
EDUCATION/CULTURAL/CIVIC RESPONSIBILITY PROGRAMS						
— Back to School	[0.992]	0.000	0.000	0.000		
— Best Friends Foundation Youth Development	[0.248]	0.000	0.000	0.000		
— Building Bridges Across the River (town hall and arts center)	[0.298]	0.000	0.000	0.000		

Programs	Enacted FY2005	FY2006				
		Admin.	City's Budget	House	Senate	Conf.
— Calvary Bilingual Multi-cultural Learning Center	[0.397]	0.000	0.000	0.000		
— Capital City Careers Fed. Industry Academies	[0.198]	0.000	0.000	0.000		
— Capital Hill Cluster School (public school consortium)	[0.297]	0.000	0.000	0.000		
— Caribbean Amer. Mission for Edu. Research (higher education)	[0.347]	0.000	0.000	0.000		
— Catalyst (Jefferson High Sch. Teacher Feeder program)	[0.198]	0.000	0.000	0.000		
— Center for Inspired Teaching	[0.148]	0.000	0.000	0.000		
— Church of the Epiphany Support Our Schools Program	[0.148]	0.000	0.000	0.000		
— City Year's Reading for Success/literacy	[0.992]	0.000	0.000	0.000		
— Council for Court Excellence	[0.198]	0.000	0.000	0.000		
— Dance Institute of Wash.	[0.148]	0.000	0.000	0.000		
— Discovery Creek Children's Museum	[0.397]	0.000	0.000	0.000		
— Ed. Adv. Alliance for Youth Civic Engagement	[0.248]	0.000	0.000	0.000		
— Everybody Wins Mentoring Program	[0.148]	0.000	0.000	0.000		
— First Book Program (National Book Bank)	[0.198]	0.000	0.000	0.000		
— Foundation for Support of African Americans in Film	[0.248]	0.000	0.000	0.000		
— Girl Scout Council	[0.694]	0.000	0.000	0.000		
— Gonzaga College High School capital. development	[0.397]	0.000	0.000	0.000		
— Institute for Ed. Equity	[0.248]	0.000	0.000	0.000		
— Jewish Council for Pub. Affairs	[0.496]	0.000	0.000	0.000		
— Kingsman Charter School	[0.198]	0.000	0.000	0.000		
— Love of Children/Thurgood Marshall Ctr. Youth Tech. Prog.	[0.099]	0.000	0.000	0.000		
— Main Street Arts Initiative DC Commission on the Arts	[0.397]	0.000	0.000	0.000		
— National Capital Children's Museum	[0.496]	0.000	0.000	0.000		
— Nat. Hist. Trust Lincoln Cottage Restoration	[0.992]	0.000	0.000	0.000		
— Perry School Comm. Serv.	[0.148]	0.000	0.000	0.000		
— ReadNet Foundation	[0.397]	0.000	0.000	0.000		

Programs	Enacted FY2005	FY2006				
		Admin.	City's Budget	House	Senate	Conf.
— See Forever Foundation in support of M. Angelou Charter School after school program	[0.248]	0.000	0.000	0.000		
— Seed Foundation urban boarding school model	[0.148]	0.000	0.000	0.000		
— Shakespeare Theater Construction of new facility	[0.893]	0.000	0.000	0.000		
— STEED Youth Edu. and Rec.	[0.347]	0.000	0.000	0.000		
— SURE Foundation (library and community resources)	[0.099]	0.000	0.000	0.000		
— Southeast Univ. E-Learning program	[0.446]	0.000	0.000	0.000		
— Teach for America, DC	[0.198]	0.000	0.000	0.000		
— Teacher Advancement Prog.	[0.198]	0.000	0.000	0.000		
— Values First public school training program	[0.248]	0.000	0.000	0.000		
— Washington Area Women's Foundation (philanthropy)	[0.992]	0.000	0.000	0.000		
— Wash. Opera Education	[0.397]	0.000	0.000	0.000		
— World Vision Kids in Need Community Storehouse	[0.397]	0.000	0.000	0.000		
ECONOMIC DEVELOPMENT, INFRASTRUCTURE, HOUSING						
— Active Cap Anacostia River Cleanup	[0.397]	0.000	0.000	0.000		
— Barrack Row Main Street	[0.496]	0.000	0.000	0.000		
— Eastern Market Renovation	[0.248]	0.000	0.000	0.000		
— National Composite Center (bridge replacement)	[0.992]	0.000	0.000	0.000		
— One Econ./Digital Inclusion	[0.099]	0.000	0.000	0.000		
HEALTH AND SOCIAL SERVICES						
— All Faith Consortium (substance abuse)	[0.198]	0.000	0.000	0.000		
— ARISE life skills for at-risk youth	[0.297]	0.000	0.000	0.000		
— Capital Area Food Bank	[0.297]	0.000	0.000	0.000		
— Center for Mental Health	[0.397]	0.000	0.000	0.000		
— Chesapeake Veteran Hosp.	[0.248]	0.000	0.000	0.000		
— Children's Health Fund/van	[0.397]	0.000	0.000	0.000		
— Children's National Medical Center capital improvements	[4.960]	0.000	0.000	0.000		
— Children's National Medical Center capital dev. lab.	[0.397]	0.000	0.000	0.000		
— DC Poison Control Center	[0.446]	0.000	0.000	0.000		

Programs	Enacted FY2005	FY2006				
		Admin.	City's Budget	House	Senate	Conf.
— Gospel Rescue Ministries	[0.297]	0.000	0.000	0.000		
— Latin Amer. Youth Ctr. Home for Teenage Girls	[0.099]	0.000	0.000	0.000		
— Nat'l Camp. to Prevent Teen Pregnancy / Uhlich Children's Advantage Network	[0.297]	0.000	0.000	0.000		
— St. Coletta construction of facilities for services to mentally retarded and multi-handicapped	[1.984]	0.000	0.000	0.000		
— Teen Connection (teen pregnancy prevention)	[0.893]	0.000	0.000	0.000		
— Unity Health Care	[0.645]	0.000	0.000	0.000		
— Whitman Walker Clinic	[0.595]	0.000	0.000	0.000		
— Women's Center Family Strengthening Program	[0.843]	0.000	0.000	0.000		
PUBLIC SAFETY						
— Court Appointed Special Advocate Fam. Ct. Services	[0.297]	0.000	0.000	0.000		
— National Children's Alliance	[0.496]	0.000	0.000	0.000		
— Polaris Project for victims of trafficking (DC Task Force)	[0.119]	0.000	0.000	0.000		
— Safe Kids Coalition child safety and seat belt program	[0.297]	0.000	0.000	0.000		
— Volunteers for Abused and Neglected Children	[0.099]	0.000	0.000	0.000		
JOB TRAINING						
— Amer. Comm. Partnership	[0.099]	0.000	0.000	0.000		
— National Center for Manufacturing Sciences	[0.397]	0.000	0.000	0.000		
— Second Chance Employ. Service for Women	[0.446]	0.000	0.000	0.000		
— STRIVE/job readiness	[0.099]	0.000	0.000	0.000		
RECREATION						
— Capitol Hill Arts Workshop cap. improvements	[0.148]	0.000	0.000	0.000		
— Friends of Ft. Dupont Ice Arena Capital Improvements	[0.080]	0.000	0.000	0.000		
— Old Naval Hospital Found. Cap. Hill Community Center	[0.694]	0.000	0.000	0.000		
Total federal payments	555.521	573.397	635.197	603.397		

Note: Due to rounding, numbers in columns may not sum to subtotals and totals.

In addition to appropriating federal payments for specific activities, Congress must approve the District's operating and capital budgets. As submitted by the District and considered by the House, the District's operating budget totals \$8.8 billion for FY2006. This includes \$7.4 billion in operating funds and \$1.4 billion in enterprise funds. The budget also provides \$2.7 billion in capital outlays, including \$535 million to finance the construction of a new baseball stadium.

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

Programs	Enacted FY2005	FY2006			
		District	House	Senate	Conf.
Division of Expenses: District of Columbia Funds					
GENERAL FUND					
Governmental Direction and Support	416.069	512.833	512.833		
Economic Dev. and Regulation	334.745	445.831	445.831		
Public Safety and Justice	797.423	837.617	837.617		
Public Education System	1,223.424	1,429.498	1,429.498		
Human Support Services	2,533.825	2,820.657	2,820.657		
Public Works	331.936	374.476	374.476		
Cash Reserve Fund	50.000	50.000	50.000		
Repayment of Loans and Interest	347.700	370.428	370.428		
Payment of Interest on Short Term Borrowing	4.000	5.500	5.500		
One Judiciary Square Certificate of Participation	11.252	11.000	11.000		
Settlements and Judgments	20.270	20.655	20.655		
Wilson Building	3.633	3.740	3.740		
Workforce Investments	38.114	61.110	61.110		
Non-Departmental Agency	13.946	36.205	36.205		
Emergency Planning and Security Costs	0.000	0.000	0.000		
Tax Increment Financing	9.710	0.000	0.000		
Equipment Lease	23.109	27.441	27.441		
Emer. and Contingency Reserve Fund	0.000	0.000	0.000		
Pay-As-You-Go Capital	6.531	252.700	252.700		
Pay-As-You-Go Contingency	43.137	12.462	12.462		
DC Retiree Health Contribution	—	138.000	138.000		
Debt Service Issuance Costs	—	40.000	40.000		
General Fund Total Operating Expenses	6,208.824	7,450.153	7,450.153		
ENTERPRISE FUNDS					
Water and Sewer Auth.	287.206	295.710	295.710		
Washington Aqueduct	47.972	50.512	50.512		
Stormwater Permit Compliance	3.792	6.673	6.673		
Lottery and Charitable Games	247.000	251.000	251.000		
Sports and Enter. Commission	7.322	339.630	339.630		
DC Retirement Board	15.277	30.078	30.078		
Convention Center Enterprise Fund	77.176	78.900	78.900		
National Capital Revitalization Corporation	7.850	52.731	52.731		

Programs	Enacted FY2005	FY2006			
		District	House	Senate	Conf.
Univ. District of Columbia	85.102	95.971	95.971		
Unemply. Insur. Trust Fund	180.000	180.000	180.000		
Other Post Employee Benefits Trust Fund	953.000	1.100	1.100		
DC Public Library Trust	17.000	17.000	17.000		
Total Enterprise Funds	959.667	1,396.305	1,396.305		
Total Operating Expenses	7,168.491	8,846.458	8,846.458		
CAPITAL OUTLAYS					
General Fund	725.886	2,176.605	2,176.605		
— Baseball Stadium Financing	0.000	[534.800]	[534.800]		
Water and Sewer Fund	371.040	529.994	529.994		
Total Capital Outlays	1,096.926	2,706.599	2,706.599		
Total District of Columbia Funds	8,265.417	11,553.057	11,553.057		

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 consider in reviewing the District's appropriations for FY2006. 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; it also restricted the location of privately funded needle exchange activities. 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 required such entities to track and account for the use of public and private funds.

During consideration of the FY2004 District of Columbia Appropriations Act, District officials unsuccessfully sought to lift the prohibition on the use of District funds for needle exchange programs. A Senate provision, which was not adopted, proposed prohibiting only the use of federal funds for a needle exchange program and allowing the use of District funds. The House and final conference versions of the FY2004 bill allowed the use of private funds for needle exchange programs and required 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.

The President's budget proposal for FY2006 included a provision that would continue to prohibit the use of District and federal funds in support of a needle exchange program. H.R. 3058, as approved by the House on June 30, 2005, also includes a provision that would retain the current law prohibiting the use of federal and District funds for a needle exchange program.

Medical Marijuana

The city's medical marijuana initiative 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 1998 voter-approved initiative that would have allowed the medical use of marijuana to assist persons suffering from 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 DC Chapter of the American Civil Liberties Union (ACLU). On September 17, 1999, District Court Judge Richard Roberts ruled that Congress, despite its 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.⁶ This ruling allowed the city to tally the votes from 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 such congressional actions undercut the concept of home rule.

The District of Columbia Appropriations Act for FY2002, P.L. 107-96, included a provision that continued to prohibit the District government from implementing the

⁶ *Turner v. District of Columbia Board of Elections and Ethics*, No. 98-2634 Civ. (D.D.C. Sept. 17, 1999; memorandum opinion).

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 another 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.⁷ The judge stated that the effect of the amendment was to restrict the plaintiff's First Amendment right 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 for the November 2002 general election.

More recently, on June 6, 2005, the Supreme Court, in a six-to-three decision, ruled that Congress possessed the constitutional authority under the commerce clause to regulate or prohibit the interstate marketing of both legal and illegal drugs. This includes banning the possession of drugs in states⁸ and the District of Columbia that have decriminalized or permitted the use of marijuana for medical or therapeutic purposes.⁹

The President's budget proposal for FY2006 and H.R. 3058, as approved by the House, would continue to prohibit the implementation of the medical marijuana ballot initiative. During its consideration of the District budget for FY2006, the city council did not include language related to the implementation of 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 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

⁷ *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 judgment). 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.

⁸ Eleven states allow medical marijuana usage or limit the penalty for such use: Alaska, California, Colorado, Hawaii, Maine, Maryland, Montana, Nevada, Oregon, Vermont, and Washington.

⁹ *Gonzalez v. Raich* 545 U.S. (2005). For additional information, see CRS Report RS22167, *Gonzales v. Raich: Congress's Power Under the Commerce Clause to Regulate Medical Marijuana*, by Todd B. Tatelman.

prohibiting the use of federal or District funds for abortion services, except in cases where the life of the mother was endangered, or the pregnancy was the result of rape or incest. This prohibition has been in place since 1995, when Congress approved the District of Columbia Appropriations Act for FY1996, P.L. 104-134.

Since 1979, with the passage of the District of Columbia Appropriations Act of 1980, P.L. 96-93, Congress has placed some limitation or prohibition on the use of public funds for abortion services for District residents. From 1979 to 1988, Congress restricted the use of federal funds for abortion services to cases where the mother's life was endangered, or the pregnancy resulted from rape or 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.¹⁰ 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.¹¹

The District successfully sought 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, however; 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 was endangered or cases where the pregnancy was the result of rape or incest. H.R. 3058 would continue to prohibit the use of both District and federal funds for abortion services, except in instances of rape or incest, or when pregnancy endangers the life of the mother.

Health Care Benefits Expansion Act (Domestic Partners Program)

P.L. 107-96 included a provision lifting the congressional prohibition on the use of District funds to implement its Health Care Benefits Expansion Act.¹² The

¹⁰ "District Policies Hit Hard in Spending Bill," *Congressional Quarterly Almanac*, vol. XLIV (Washington: Congressional Quarterly, Inc., 1988), p. 713.

¹¹ "D.C. Bill Vetoed Twice Over Abortion Funding," *Congressional Quarterly Almanac*, vol. XLV (Washington: Congressional Quarterly, Inc., 1989), p. 757.

¹² On Sept. 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
(continued...)

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 was not 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, a District government employee enrolled in the District of Columbia Employees Health Benefits Program is allowed to purchase family health insurance coverage that would cover the employee's family members, including a 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. At least one bill, H.R. 72, would define marriage in the District of Columbia as a union between a man and a woman. 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 health care benefits for domestic partners note that as of 2004, 11 states and the District of Columbia, 185 local governments, and more than 8,000 companies, colleges, and universities offered health insurance benefits to domestic partners.¹³

The House Appropriations bill, consistent with the provision first included in the District's FY2002 Appropriations Act, includes a general provision that allows the use of District funds to administer the program.

¹² (...continued)

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 Sept. 25, 2001, during House consideration of H.R. 2944, the House version of the District of Columbia Appropriations Act for FY2002, Rep. 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.

¹³ Human Rights Campaign Foundation, "The State of the Workplace for Gay, Lesbian, and Transgender Americans: 2004," available at [http://www.hrc.org/Content/ContentGroups/Publications1/State_of_the_Workplace/Workplace0603.pdf], visited June 22, 2005.

District of Columbia Handgun Ban¹⁴

In the 108th Congress, the House passed a bill (H.R. 3193) introduced by Representative Mark Souder that would have repealed the District of Columbia handgun ban and other limitations on firearms possession. The handgun ban was passed by the District of Columbia Council on June 26, 1976. It required that all firearms within the District be registered and all owners be licensed, and it prohibited the registration of handguns after September 24, 1976 (hence, the “DC handgun ban”). Under the Home Rule Act (P.L. 93-198), however, Congress reserved for itself the authority to review and disapprove District legislation.

As passed by the House, H.R. 3193 would have amended the DC Code to:

- limit the Council’s authority to regulate firearms;
- remove the term “semiautomatic weapon” that can fire more than 12 rounds without manually reloading from the definition of “machine gun”;
- amend the registration requirements so that they do not apply to handguns, but only to sawed-off shotguns, machine guns, and short-barreled rifles;
- remove restrictions on ammunition possession;
- repeal requirements that DC residents keep firearms in their possession unloaded and disassembled, or bound by a trigger lock;
- repeal firearm registration requirements generally; and
- repeal certain criminal penalties for possessing unregistered firearms or carrying unlicensed handguns. A similar measure was introduced in the Senate (S. 1414).

In the 109th Congress, Representative Souder introduced a bill “to restore Second Amendment rights in the District of Columbia” (H.R. 1288). Senator Kay Bailey Hutchison introduced a similar measure (S. 1082). During consideration of H.R. 3058, the House passed an amendment offered by Representative Souder to prohibit the use of any funding provided under that bill to enforce Section 702 of the Firearms Control Regulations Act of 1975 (Section 7-2507.02, DC Official Code) — the provision that requires District residents to keep their firearms unloaded and disassembled, or bound by a trigger lock. Citing ongoing efforts to reduce firearms-related violence in the city, the District’s Delegate, Eleanor Holmes Norton, Mayor Anthony Williams, and Police Chief Charles Ramsey oppose this funding limitation included in H.R. 3058, as well as bills to overturn the District’s handgun control law.¹⁵

¹⁴ For further information on gun control issues, see CRS Report RL32842, *Gun Legislation in the 109th Congress*, by William J. Krouse.

¹⁵ Spencer S. Hsu, “House Votes to Repeal District Gun Restriction,” *Washington Post*, July 1, 2005, p. B01.

Federal Payment for School Improvement

Beginning with the Consolidated Appropriations Act, 2004 (P.L. 108-199), a federal payment for school improvement has been included as part of each year's District of Columbia appropriations act. As part of this payment, funding has been provided for three activities: for the District of Columbia Public Schools to improve public education; for the State Education Office to expand public charter schools; and for the Secretary of the Department of Education to fund opportunity scholarships (private school vouchers) under the District of Columbia School Choice Incentive Act (which was enacted as part of P.L. 108-199). Funding for these activities has been provided to show a commitment toward supporting school improvement in traditional public schools and public charter schools, while also demonstrating and evaluating the effectiveness of fostering school improvement through a scholarship or voucher program in which students receive public funding to support their attendance at private schools.

Under the District of Columbia School Choice Incentive Act, the Secretary of Education funds the operation of a five-year demonstration scholarship program that enables children from low-income families in the District of Columbia to attend private elementary or secondary schools located in the District of Columbia. Students who are residents of the District of Columbia and who are from families with incomes not exceeding 185% of the poverty level are eligible to apply for scholarships valued at up to \$7,500 to cover the costs of tuition, fees, and transportation expenses associated with attending a participating private elementary or secondary school located in the District of Columbia. Students are selected to receive scholarships through a lottery. Scholarship recipients remain eligible to continue to participate in the program in subsequent years, so long as their family income does not exceed 200% of the poverty level. Students enrolled in schools identified for school improvement, corrective action, or restructuring under Title I-A of the Elementary and Secondary Education Act are given priority in receiving scholarships (through weighting procedures in the lottery); however, all students meeting program eligibility criteria are eligible for scholarships regardless of whether they were previously enrolled in public or private schools.¹⁶

The demonstration project includes a rigorous evaluation component.¹⁷ Among the issues required to be evaluated as part of the program are the academic achievement of scholarship recipients compared with non-recipients, the success of the program in expanding school choice options, and the impact of the program on

¹⁶ For a review of the program and policy issues raised prior to its enactment, see CRS Report RL32019, *Proposals to Establish a K-12 Scholarship or Voucher Program in the District of Columbia: Policy Issues and Analysis*, by David P. Smole.

¹⁷ The first year evaluation report was released in April 2005. U.S. Dept. of Education, National Center for Education Evaluation and Regional Assistance, *Evaluation of the DC Opportunity Scholarship Program: First Year Report on Participation*, by Patrick Wolf, Babette Gutmann, Nata Eissa, Michael Puma, and Marsha Silverberg (Washington, DC: GPO, 2005).

students and public schools in the District of Columbia.¹⁸ In the first year of implementation, school year 2004-2005, 58 of 109 private schools located in the District of Columbia participated in the program, making available slots for 1,264 students. Based on data from the U.S. Census Bureau, it is estimated that over 40,000 students may be eligible for the program, and for 2004-2005, 1,848 students who met the program's eligibility criteria applied for scholarships.

The enactment of the program was contentious, and following the first year of implementation, the program remains controversial. Some of the controversy may be fueled by effects of the limited time for implementation following enactment. The program has been criticized on several fronts including:

- the participation of students and schools has not been as great as was anticipated;
- a sizeable percentage of first-year scholarship recipients had previously been enrolled in private schools;
- a mismatch between scholarship applicants and available slots in schools across the various grade levels (with an oversupply at the elementary level and a shortage at the secondary level), and
- the \$7,500 scholarship amount does not meet the full cost of attendance for most secondary schools.

In reaction to some of these concerns, proposals may be made to amend some of the terms and conditions of the opportunity scholarship program. However, given the early stages of the program and the evaluation component, value may be found in continuing the demonstration program in its current form before significant changes are made.

The House version of H.R. 3058 would appropriate \$14.566 million for the program, including \$1 million for administrative expenses. This is consistent with the amount requested by the President for FY2006.

¹⁸ P.L. 108-199 § 309(a)(4), 118 STAT. 132.