



FY2010 Appropriations: District of Columbia

Eugene Boyd

Analyst in Federalism and Economic Development Policy

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Summary

On May 7, 2009, the Obama Administration released its detailed budget requests for FY2010, which included \$739.1 million in special federal payments to the District of Columbia. Approximately three-quarters—\$544.1 million—of the President’s proposed budget request for the District would be used to support the courts and criminal justice system. The President also requested \$109.5 million in support of college tuition assistance and elementary and secondary education initiatives

On May 12, 2009, the District of Columbia Council passed the city’s FY2010 operating budget. The bill, which was not signed by the mayor, proposed an operating fund budget of \$8,917.8 million, and included \$1,433.1 million in enterprise funds. However, on July 17, 2009 the mayor submitted a revised budget to address a growing budget shortfall currently projected at \$150 million for FY2010. This delay in the submission of a budget for congressional review is due in large part to declining revenue projections related to the current economic recession. According to the mayor and the city’s chief financial officer, the city faces the task of closing a \$603 million budget gap, including a \$453 million shortfall in its current FY2009 budget, and a \$150 million projected shortfall for FY2010. In the absence of a formal submission of the city’s budget, Congress has begun consideration of special federal payments and general provision components of the District appropriations act.

On July 8, 2009, the Senate Appropriations Committee reported its version of the Financial Services and General Government Appropriations Act for FY2010, S. 1432 with an accompanying report (S.Rept. 111-43). As reported, the bill recommends \$727.4 million in special federal payments to the District. This is \$40 million less than recommended by the House, and \$12 million less than requested by the Administration.

On July 16, 2009, the House approved the Financial Services and General Government Appropriations Act for FY2010, H.R. 3170, by a vote of 219 to 208 (Roll no. 571). The bill includes \$768.3 million in special federal payments to the District. This is \$29.2 million more than requested by the Administration and \$25.9 million more than appropriated for FY2009.

The House and Senate versions of the Financial Services and General Government Appropriations Act for FY2010 include a number of controversial provisions. Both bills would lift the ban on the use of District funds to provide abortion services. In an effort to combat the spread of AIDS and HIV among intravenous drug abusers, the Senate bill would allow the use of District funds, but prohibit the use of federal funds for a needle exchange program, while the House-passed bill would lift the prohibition on the use of both District and federal funds for such efforts. S. 1432 would continue to prohibit the use of federal and District funds to implement a medical marijuana ballot initiative, while H.R. 1170 would lift the prohibition on the use of both District and federal funds to legalize the use of marijuana for medical or therapeutic purposes. These House provisions represent a reversal or modification of provisions included in previous appropriations acts. This report will be updated as events warrant.

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The authority for congressional review and approval of the District of Columbia’s budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).¹ The Constitution gives Congress the power to “exercise exclusive Legislation in all Cases whatsoever” pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule authority and empowered citizens of the District to elect a mayor and city council. However, Congress retained the authority to review and approve all District laws, including the District’s annual budget. As required by the Home Rule Act, the city council must approve a budget within 56 days after receiving a budget proposal from the mayor.² The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.³

Table I. Status of District of Columbia Appropriations, FY2010

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6/25/09	7/8/09	—	7/16/09	—	—	—	—	—	—
H.R. 3170	S. 1432	H.Rept. 202	219-208	S.Rept. 113	—	—	—	—	—

FY2010 Budget Request

District of Columbia appropriations acts typically include the following three components:

1. *Special federal payments* appropriated by Congress to be used to fund particular initiatives or activities of interest to Congress or the Administration.
2. The *District’s operating budget*, which includes funds to cover the day-to-day functions, activities, and responsibilities of the government, enterprise funds that provide for the operation and maintenance of government facilities or services that are entirely or primarily supported by user-based fees, and long-term capital outlays such as road improvements. District operating budget expenditures are paid for by revenues generated through local taxes (sales and income), federal funds for which the District qualifies, and fees and other sources of funds.
3. *General provisions* are the typically the third component of the District’s budget reviewed and approved by Congress. These provisions can be grouped into several distinct, but overlapping categories with the most predominant being provisions relating to fiscal and budgetary directives and controls. Other provisions include administrative directives and controls; limitations on lobbying

¹ See Article I, Sec. 8, clause 17 of the U.S. Constitution and Section 446 of P.L. 93-198, 87 Stat. 801.

² 120 Stat. 2028.

³ 87 Stat. 801.

for statehood or congressional voting representation, congressional oversight, and congressionally imposed restrictions and prohibitions related to social policy.

The President's Budget Request

On May 7, 2009, the Obama Administration released its detailed budget requests for FY2010. The Administration's proposed budget includes \$739.1 million in special federal payments to the District of Columbia, which is slightly lower than the District's FY2009 appropriation of \$742.4 million. Approximately three-quarters (\$544.1 million) of the President's proposed budget request for the District would be targeted to the courts and criminal justice system. This includes:

- \$248.4 million in support of court operations;
- \$52.2 million for Defender Services;
- \$203.5 million for the Court Services and Offender Supervision Agency for the District of Columbia, an independent federal agency responsible for the District's pretrial services, adult probation, and parole supervision functions;
- \$1.8 million for the Criminal Justice Coordinating Council;
- \$37.3 million for the public defender's office; and
- \$500,000 to cover costs associated with investigating judicial misconduct complaints and recommending candidates to the President for vacancies to the District of Columbia Court of Appeals and the District of Columbia Superior Court.⁴

The President's budget request also includes \$109.5 million in support of education initiatives, including \$74.4 million to support elementary and secondary education, and \$35.1 million for college tuition assistance. This represents 17% of the Administration's budget request.

District's Budget

District revenues, like those of most local governments and states, have been negatively affected by the current economic recession. On March 20, 2009, the mayor of the District of Columbia submitted a proposed budget to the District of Columbia Council. On May 12, 2009, the council approved a FY2010 budget that included \$8.9 billion in operating funds, \$1.4 billion in enterprise funds, and \$631.6 million in capital outlays. In June the District's chief financial officer issued 2009 revenue estimates that identified a projected \$340 million budget gap, including a \$190 million shortfall in FY2009, and a \$150 million budget gap for FY2010.⁵ On July 16, 2009, the mayor noted that the projected budget shortfall had grown to \$603 million, including a \$453 million shortfall in FY2009, and a \$150 million projected budget gap for FY2010.⁶ He also

⁴ This includes \$295,000 to the Commission on Judicial Disabilities and Tenure and \$205,000 to the Judicial Nomination Commission.

⁵ Government of the District of Columbia, Office of the Chief Financial Officer, *June 2009 Revenue Estimates*, Washington, D.C., June 22, 2009, <http://newsroom.dc.gov/show.aspx/agency/cfo/section/2/release/17431>.

⁶ Executive Office of the Mayor of the District of Columbia, "Fenty Outlines Proposal to Close District's Budget Gap," (continued...)

outlined proposals to address the FY2009 and FY2010 revenue shortfalls including the reallocation or conversion of previous years' unspent dedicated tax revenues to local funds, agency spending reductions and savings, the use of federal stimulus funding from the American Recovery and Reinvestment Act, the sale of District assets, and the use of the city's contingency reserve fund, which must be replenished within two years.⁷

Congressional Action

Congress not only appropriates federal payments to the District to fund certain activities, but also reviews, and may modify, the District's entire budget, including the expenditure of local funds as outlined in the District's Home Rule Act. Since FY2006, the District's appropriations act has been included in a multi-agency appropriations bill; but, before FY2006 the District budget was considered by the House and the Senate as a stand-alone bill. It is currently included in the Financial Services and General Government Appropriations Act. Because of efforts to close a significant budget gap, District officials have not yet submitted its general operating budget for congressional consideration. However, both the House and the Senate have taken up consideration of other components of the District of Columbia appropriations act, namely, special federal payments and general provisions.

House Bill

On June 25, 2009, a House subcommittee conducted a markup of the Financial Services and General Government Appropriations Act of 2010, H.R. 3170, and forwarded the bill to the Appropriations Committee for its consideration. On July 10, 2009, the committee reported out the bill (H.Rept. 111-202), which included \$768.3 million in special federal payments to the District. This is \$29.2 million more than requested by the Administration and \$25.9 million more than appropriated for FY2009. The bill includes a substantial increase (\$20 million) above the amount requested by the Administration for court operations. The bill also directs \$20 million in additional funding to support the District of Columbia Public Schools while reducing funding for school vouchers by almost \$2 million. On July 16, 2009, the House approved H.R. 3170 by a vote of 219 to 208 (Roll no. 571).

General Provisions

The House bill includes several general provisions governing budgetary and fiscal operations and controls including prohibiting deficit spending within budget accounts; establishing restrictions on the reprogramming of funds, and allowing the transfer of local funds to capital and enterprise fund accounts. In addition, the bill would require the city's Chief Financial Officer to submit a revised operating budgets for all District government agencies and the District public schools within 30 days after the passage of the bill.

(...continued)

press release, July 16, 2009, <http://dc.gov/mayor/news/release.asp?id=1640&mon=200907>.

⁷ Ibid.

The House bill also includes several general provisions relating to statehood or congressional representation for the District, including provisions that would continue to prohibit the use of *federal funds* to:

- support or defeat any legislation being considered by Congress or a state legislature;
- cover salaries, expenses, and other costs associated with the office of Statehood Representative and Statehood Senator for the District of Columbia; and
- support efforts by the District of Columbia Attorney General or any other officer of the District government to provide assistance for any petition drive or civil action seeking voting representation in Congress for citizens of the District.

In addition, the bill includes significant changes in a number of controversial provisions (social riders) that city officials have sought to eliminate or modify, including those related to medical marijuana, needle exchange, and abortion services. Despite objections raised by Republican Members of the House, the bill was brought to the floor under a restrictive rule (H.Res. 644) that did not allow Members to offer amendments on several controversial provisions related to same-sex marriage, medical marijuana, abortion, and needle exchange. As passed by the House, H.R. 3170 would retain the prohibition on the use of federal funds, but would lift the prohibition on the use of District funds to:

- provide abortion services; and
- regulate the medical use of marijuana.

The bill also would eliminate the prohibition on the use of both federal and District funds to support a needle exchange program so long as the distribution of sterile hypodermic syringes was not conducted within 1,000 feet of certain public facilities or youth-oriented activity centers, including schools, colleges and universities, parks, playgrounds, and recreational centers. The House-passed provisions represent a lifting of restrictions on the use of District and federal funds that were put in place when Republicans controlled the House. Removal of these so-called social riders have been long sought by District officials who viewed them as antithetical to the concept of home rule.

Senate Bill

On July 8, 2009, the Senate Appropriations Committee reported S. 1432, its version of the Financial Services and General Government Appropriations Act for FY2010, with an accompanying report (S.Rept. 111-43). As reported, the bill recommends \$727.4 million in special federal payments to the District. This is \$40 million less than recommended by the House, and \$12 million less than requested by the Administration. The bill includes \$10 million less in funding for court operations than recommended by the Administration. It would appropriate an additional \$21 million in funding to support the District of Columbia Public Schools while reducing funding for school vouchers by almost \$1 million.

General Provision

The Senate bill's general provisions mirror some of the language included in the House bill. Like the House bill, S. 1432 includes provisions governing budgetary and fiscal operations and controls. It also includes provisions restricting the use of federal funds to support District statehood or congressional voting representation, including provisions that would continue to prohibit the use of *federal funds* to:

- support or defeat any legislation being considered by Congress or a state legislature;
- cover salaries expenses and other costs associated with the office of Statehood Representative and Statehood Senator for the District of Columbia; and
- support efforts by the District of Columbia Attorney General or any other officer of the District government to provide assistance for any petition drive or civil action seeking voting representation in Congress for citizens of the District.

The bill also includes changes in two provisions that city officials have sought to eliminate or modify. The bill would:

- lift the prohibition on the use of District funds to provide abortion services, which is consistent with the House bill;
- maintain the prohibition of the use of federal and District funds to regulate and decriminalize the medical use of marijuana (unlike the House bill it allows for the use of District funds to regulate medical marijuana); and
- maintain the current prohibition on the use of federal funds to support a needle exchange program (unlike the House bill, which lifts the restriction on both federal and District funding for such a program).

Special Federal Payments

Both the President and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. The Obama Administration budget proposals for FY2010 included a request for \$739.1 million in special federal payments for the District of Columbia. The Financial Services and General Government Appropriations Act for FY2010, H.R. 3170, as reported by the House Appropriations Committee on July 10, 2009, included \$768.3 million in special federal payments to the District of Columbia. Two days earlier, on July 8, 2009, the Senate Appropriations Committee reported its version of the Financial Services and General Government Appropriations Act, S. 1432. The Senate bill recommended \$727.4 million in special federal payments for the District of Columbia.

Table 2 of this report shows details of the District's federal payments, including the FY2009 enacted amounts, the amounts included in the President's FY2010 budget request, and the amounts recommended by the House and Senate Appropriations Committees.

Table 2. District of Columbia Appropriations, FY2009-FY2010: Special Federal Payment
(in millions of dollars)

	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Resident Tuition Support	\$35.1	35.1	35.1	35.1	—
Emergency Planning and Security	39.2	15.0	15.0	15.4	—
District of Columbia Courts	248.4	248.6	268.9	258.5	—
Defender Services	52.5	52.5	55.0	55.0	—
Court Services and Offender Supervision Agency	203.5	212.4	212.4	212.4	—
Public Defender Service	35.7	37.3	37.3	37.3	—
Criminal Justice Coordinating Council	1.8	1.8	2.0	1.8	—
Judicial Commissions	—	0.5	0.5	0.5	—
Water and Sewer Authority	16.0	20.0	20.4	20.0	—
Office of the Chief Financial Officer	4.9	0.0	1.7	1.0	—
<i>Living Classrooms</i>	0.0	0.0	0.1	0.0	—
<i>Nat. Building Museum</i>	0.0	0.0	0.15	0.0	—
<i>Samaritan Ministry</i>	0.0	0.0	0.1	0.0	—
<i>Washington Center</i>	0.0	0.0	0.12	0.0	—
<i>Wash. Hosp. Center</i>	0.0	0.0	0.05	0.0	—
<i>Whitman-Walker Clinic</i>	0.0	0.0	0.1	0.0	—
<i>Youth Power Center</i>	0.0	0.0	0.1	0.0	—
<i>I Have a Dream Foundation</i>	0.8	0.0	0.0	0.0	—
<i>Boys and Girls Club Project Learn</i>	0.1	0.0	0.0	0.0	—
<i>Capital Area Food Bank</i>	2.0	0.0	0.0	0.0	—
<i>Children's National Medical Center</i>	2.9	0.0	0.0	1.0	—
<i>Literacy Education</i>	0.8	0.0	0.0	0.0	—
<i>Education Advancement Alliance</i>	0.2	0.0	0.0	0.0	—
<i>Everybody Wins</i>	0.2	0.0	0.0	0.0	—
<i>Excel-Automotive Workforce Dev.</i>	0.3	0.0	0.0	0.0	—
<i>National Children's Alliance</i>	0.2	0.0	0.0	0.0	—

	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Safe Kids	0.4	0.0	0.0	0.0	—
Georgetown Metro Connection	0.1	0.0	0.12	0.0	—
The Perry School for Econ. Empowerment	0.1	0.0	0.0	0.0	—
Executive Office of the Mayor	3.4	0.0	0.0	0.0	—
Marriage Initiative Matching Funds	1.3	0.0	0.0	0.0	—
Marriage Development Accounts	2.1	0.0	0.0	0.0	—
School Improvement	54.0	74.4	74.4	75.4	—
Public Schools	20.0	42.2	42.2	42.2	—
Public Charter Schools	20.0	20.0	20.0	20.0	—
Education Vouchers	14.0	12.2	12.2	13.2	—
Jump Start Public School Reform	20.0	0.0	0.0	0.0	—
Consolidated Laboratory Facility	21.0	15.0	15.0	15.0	—
Central Library and Branches	7.0	0.0	0.0	0.0	—
D.C. National Guard	0.0	2.0	2.4	0.0	—
Perm. Supportive Housing	0.0	19.2	19.2	0.0	—
Disconnected Youth	0.0	5.0	5.0	0.0	—
Public Health Services	0.0	0.0	4.0	0.0	—
Special Federal Payments (total)	742.5	738.8	768.3	727.4	—

Sources: FY2009 Enacted, FY2010 Request, and FY2010 figures are taken from the H.Rept. 111-202 accompanying H.R. 1170, the Financial Services and General Government Appropriations Act, FY2010 and S.Rept. 111-43, accompanying S. 1432, the Financial Services and General Government Appropriations Act, FY2010. Columns may not equal the total due to rounding

Local Operating Budget

On May 12, 2009, the District of Columbia Council approved a FY2010 operating budget that totaled \$8.9 billion dollars (**Table 3**). However, the mayor did not sign the bill because of concerns raised about declining revenue projections. On July 17, 2009, the mayor submitted a revised budget for the council's consideration. This modified FY2010 budget will attempt to close a projected \$150 million budget gap.

Table 3. Division of Expenses: District of Columbia Funds: FY2010
(in millions of dollars)

	District	House	Senate	Conference
General Fund				
Gov. Dir. & Support	428.652	—	—	—
Econ. Dev. and Reg.	454.093	—	—	—
Public Safety and Justice	1,312.807	—	—	—
Public Education	1,717.567	—	—	—
Human Support Services	3,394.390	—	—	—
Public Works	667.659	—	—	—
Financing and Other	942.737	—	—	—
Gen. Oper. Exp.	8,917.905	8,858.278	8,858.278	—
Enterprise Fund				
Bus. Improv. District	23.600	—	—	—
WASA	393.623	—	—	—
Wash. Aqueduct	54.356	—	—	—
Lottery	250.000	—	—	—
Retirement Board	30.622	—	—	—
Convention Center	97.059	—	—	—
Housing Fin. Agency	8.894	—	—	—
Univ. D.C.	142.528	—	—	—
Dept. Human Res. Trust Fund	2.400	—	—	—
Library Trust Fund	0.017	—	—	—
Unemploy. Ins. Trust Fund	251.000	—	—	—
Housing Prod. Trust Fund	51.329	—	—	—
Tax Increment Fin.	38.887	—	—	—
Baseball Fund	77.498	—	—	—
Repayment of PILOT	11.336	—	—	—
Tot. Enterp. Fund	1,433.149	—	—	—
Tot. Oper. Exp.	10,351.054	—	—	—
Capital Outlay				
Cap. Construction	631.552	1,038.889	1,038.889	—
—Consolidated Lab	5.000	—	—	—
—Highway Trust	—	54.893	54.893	—
Tot. Cap. Outlay	631.552	1,038.889	1,038.889	—

Key Policy Issues

Needle Exchange

Whether to continue a needle exchange program or whether to use federal or District funds to address the spread of HIV and AIDS among intravenous drug abusers is one of several key policy issues that Congress faces in reviewing the District's appropriations for FY2010. 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 HIV and AIDS 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 allowed the use of private funds for a needle exchange program, but it prohibited 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 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 Financial Services and General Government Appropriations Act for FY2008, P.L. 110-161, contained language that modified the needle exchange provision included in previous appropriations acts. The act allowed the use of District funds for a needle exchange program aimed at reducing the spread of HIV and AIDS among users of illegal drugs. The provision was a departure from previous appropriations acts which prohibited the use of both District and federal funds in support of a needle exchange program. In addition, the explanatory statement

accompanying the act encouraged the George W. Bush Administration to include federal funding to help the city address its HIV/AIDS health crisis.

For FY2010, the District is again seeking to lift the restriction on the use of local funds to finance a needle exchange program. The President's budget proposal for FY2010 and S. 1432, as reported by the Senate Appropriations Committee, include language that would retain the current law that allows the use of District funds, but prohibits the use of federal funds, in support of a needle exchange program. However, H.R. 1170 as approved by the House on July 16, 2009, would allow the use of District and federal funds for a needle exchange program. The bill would prohibit the distribution of sterile hypodermic needles within 1,000 feet of certain youth-oriented public institutions and activity centers, including schools, colleges and universities, and recreational centers.

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 (112 Stat. 2681-150), 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.⁸ 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 (113 Stat. 1530), 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 (115 Stat. 953), included a provision that continued 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 the 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

⁸ Turner v. District of Columbia Board of Elections and Ethics, No. 98-2634 Civ. (D.D.C. Sept. 17, 1999; memorandum opinion).

court judge ruled that the congressional ban on the use of public funds to put such a ballot initiative before the voters was unconstitutional.⁹ 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. 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 states¹⁰ and the District of Columbia that have decriminalized or permitted the use of marijuana for medical or therapeutic purposes.¹¹

The President's budget proposal and S. 1432, as reported by the Senate Appropriations Committee, would maintain the status quo of prohibiting the use of federal and District funds to decriminalize and regulate the medical use of marijuana. Conversely, H.R. 1170, as passed by the House, would lift the prohibition on the use of both District and federal funds to legalize the use of marijuana for medical or therapeutic purposes.

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. Since 1979, with the passage of the District of Columbia Appropriations Act of 1980, P.L. 96-93 (93 Stat. 719), Congress has placed some limitation or prohibition on the use of public funds for abortion services for District residents. 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 (102 Stat. 2269-9), 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.¹² In 1989, President George H.W. Bush twice vetoed the District's FY1990 appropriations act over the abortion issue. He signed P.L. 101-168 (103 Stat.

⁹ *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).

¹⁰ 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.

¹¹ *Gonzales 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.

¹² "District Policies Hit Hard in Spending Bill," *Congressional Quarterly Almanac*, vol. XLIV (Washington: Congressional Quarterly, Inc., 1988), p. 713.

1278) 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.¹³

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 (107 Stat. 1350). 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 (110 Stat. 1321-91), 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.

Both H.R. 1170 and S. 1432, would lift the prohibition on the use of District funds to provide abortion services, but would continue to prohibit the use of federal funds for abortions. The Obama Administration has proposed revising language included in previous years appropriations acts prohibiting the use of District and federal funds for abortion services, but would essentially continue to restrict the use of public funds for abortion services except in cases of rape, incest, or the woman's health is threatened. The language proposed by the Administration, and included in its budget appendix, would prohibit the use of federal funds for abortion services, including any health insurance plan that may be funded in part with federal funds. However, this restriction may not apply if the pregnancy is the result of rape or incest, or the woman suffers from a disorder, injury, condition, or illness that endangers her life. The provision includes a clarifying clause that notes that the restriction on the use of federal funds would not prohibit the use of District or private funds, except the District's Medicaid matching fund contribution.¹⁴

Author Contact Information

Eugene Boyd
Analyst in Federalism and Economic Development
Policy
eboyd@crs.loc.gov, 7-8689

¹³ D.C. Bill Vetoed Twice Over Abortion Funding," *Congressional Quarterly Almanac*, vol. XLV (Washington: Congressional Quarterly, Inc., 1989), p. 757.

¹⁴ Office of Management and Budget, *Budget of the United States; Appendix*, Washington, DC, May 16, 2009, p. 1209, <http://www.whitehouse.gov/omb/budget/fy2010/assets/oia.pdf>.