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FY2014 Appropriations: District of Columbia

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Summary

On April 10, 2013, the Obama Administration released its detailed budget request for FY2014. The Administration's proposed budget includes \$676.3 million in special federal payments to the District of Columbia, which is slightly higher than the \$674.1 (excluding sequester) appropriated for FY2013. Approximately 80% (\$543.4 million) of the President's proposed budget request for the District would be targeted to the courts and criminal justice system. The President's budget request also includes \$87.2 million in support of education initiatives. This represents 12.9% of the Administration's federal payment budget request for the District of Columbia.

On May 22, 2013, the District of Columbia Council approved an FY2014 budget that included \$12.1 billion in total operating funds and \$2.1 billion in capital outlays. The mayor signed the measure (A20-0127) on July 24, 2013. Included in the act are provisions that would grant the District significant autonomy over its budgetary and legislative affairs. Specifically, the act would repeal portions of the District's code governing congressional review of all acts passed by the District of Columbia Council, including the District's annual budget and those acts approved by voters through the referendum process.

On July 25, 2013, the Senate Appropriations Committee reported S. 1371, its version of the Financial Services and General Government Appropriations Act for FY2014, with an accompanying report (S.Rept. 113-80). As reported, the bill recommended \$674.8 million in special federal payments to the District. This is \$700,000 more than appropriated for FY2013, and \$1.5 million less than requested by the Administration. On July 17, 2013, the House Appropriations Committee approved its version of the Financial Services and General Government Appropriations Act of 2014, H.R. 2786, with an accompanying report (H.Rept. 113-172). The bill includes \$635.8 million in special federal payments to the District. This is \$38.3 million less than appropriated for FY2013, \$40.5 million less than requested by the Administration, and \$39 million less than recommended by the Senate committee bill.

The Senate and House committee bills include several general provisions that city officials have sought to eliminate or modify. The Senate committee bill would lift the prohibition on the use of District funds to provide abortion services, but would continue the prohibition against the use of federal funds for the same services. The House committee bill would restrict the use of both District and federal funds for abortion services to instances involving rape, incest, or a health threat to the life of the pregnant woman. Both the House and Senate committee bills would (1) continue to prohibit the use of federal funds to regulate and decriminalize the medical use of marijuana, (2) continue to prohibit the District from using federal funds for a needle exchange program to combat the spread of HIV/AIDS, and (3) provide funding for a school voucher program, but at significantly different funding levels. The Senate committee measure, consistent with language included in the Administration FY2014 budget documents, includes provisions that would grant the city budget autonomy over the expenditure of locally raised funds, an action long sought by District officials. The Senate provisions would permit District officials to obligate and expend local funds upon enactment by the District, absent active congressional review and approval, of its local annual budget. In addition, the Senate committee bill would grant the District the authority to spend local funds if Congress has not enacted a federal appropriation authorizing the expenditure of local funds before the start of the District's fiscal year. In an effort to mitigate the impact of a federal shutdown because of a failure to pass FY2014 appropriations for the District of Columbia, the House approved, by voice vote, H.J.Res. 71, a measure that would allow the District to spend its local tax revenues to fund District operations through

December 15, 2013. Despite lobbying efforts by District elected officials, the Senate has not taken up consideration of the bill. 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 through the annual appropriations process.³ The District of Columbia's budget is included in the Financial Services and General Government (FSGG) Appropriations bill.

FY2014 Budget Request

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.⁴ Since FY2006, the District's appropriations act has been included in a multi-agency appropriations bill; before FY2006 the District budget was considered by the House and the Senate as a stand-alone bill. It is currently included in the proposed Financial Services and General Government Appropriations Acts (FSGG) (S. 1371 and H.R. 2786).

Table I. Status of FSGG and District of Columbia Appropriations, FY2014

Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7/17/2013	7/25/2013	7/23/2013		7/25/2013					
H.R. 2786	S. 1371	H. Rept. 113-172		S. Rept. 113-80					

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

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.

⁴ D.C. Code §1-204.46.

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

It should be noted that Congress has, from time to time, included language authorizing new programmatic initiatives or amendments to the District of Columbia home rule charter in the District's Appropriations bill. For example, in 1995, Congress included language authorizing the creation of public charter schools in the District of Columbia as part of P.L. 104-134, a consolidated appropriation measure.⁵ In 2004, Congress included statutory provisions creating a school voucher program as part of the District of Columbia Appropriations, which was a component of a consolidated appropriations act, P.L. 108-199.⁶

The President's FY2014 Budget Request

On April 10, 2013, the Obama Administration released its detailed budget request for FY2014. The Administration's proposed budget included \$676.3 million in special federal payments to the District of Columbia, which is \$2.2 million more than the District's FY2013 appropriation of \$674.1 million. Approximately 80% (\$543.4 million) of the President's proposed budget request for the District would be targeted to the courts and criminal justice system. This includes

- \$222.7 million in support of court operations;
- \$49.9 million for Defender Services;⁷
- \$227.9 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;
- \$40.6 million for the public defender's office,⁸ and

⁵ 110 Stat 1321–107.

⁶ 118 Stat. 126

⁷ Funds are administered by the Joint Committee on Judicial Administration in the District of Columbia and may be used to provide court appointed attorneys and other services for (1) indigent persons charged with a criminal offense; (2) family proceedings in which child neglect is alleged, or where the termination of the parent-child relationship is under consideration; and (3) the representation and protection of mentally incapacitated individuals and minors whose parents are deceased. Funds may also be used to provide guardian training and payments for counsel appointed in adoption proceedings, and for services such as transcripts of court proceedings, expert witness testimony, foreign and sign language interpretation, investigations, and genetic testing.

⁸ The Public Defender Service for the District of Columbia is a federally funded, independent organization governed by an eleven-member Board of Trustees. Created by federal statute (P.L. 91-358, D.C. Code Sec. 2-1601), the Public (continued...)

- \$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.⁹

The President's budget request also includes \$87.2 million in support of education initiatives, including \$52.2 million to support elementary and secondary education, \$500,000 to support the D.C. National Guard college access program, and \$35 million for college tuition assistance. These amounts represent 12.9% of the Administration's federal payment budget request for the District of Columbia.

District's FY2014 Budget

On March 28, 2013, the mayor of the District of Columbia submitted a proposed budget to the District of Columbia Council. On May 22, 2013, the council approved an FY2014 budget that included \$12.2 billion in operating funds and \$2.2 billion in capital outlays. The mayor signed the measure (A20-0127) on July 24, 2013. Included in the act are provisions that would grant the District greater self-governance. The act would provide some level of budget autonomy in the expenditure of local funds and legislative autonomy. Specifically, the act would, by reference, enact the Local Budget Autonomy Act of 2012.¹⁰ The act, if approved by Congress, would amend the District's home rule charter by removing language that currently subjects the District's general fund budget to the congressional appropriations process. Specifically, under the Local Budget Autonomy Act, the District's local budget would become effective if Congress failed to enact a joint resolution of disapproval within a 30-day congressional review period. Thus the District's local budget would no longer require active approval by Congress.¹¹

In addition to budget autonomy, the District's Fiscal Year 2014 Budget Request Act of 2013 included several provisions intended to advance legislative autonomy. The act would

- eliminate the requirement that proposed amendments to the District's home rule charter be transmitted to Congress;

(...continued)

Defender Service implements the constitutional mandate to provide criminal defense counsel for indigent individuals. The organization also provides legal representation for individuals facing involuntary civil commitment in the District's mental health system or parole revocation for D.C. Code offenses.

⁹ This includes \$295,000 to the Commission on Judicial Disabilities and Tenure and \$205,000 to the Judicial Nomination Commission.

¹⁰ D.C. Act 19-632, which would have amended the District's Home Rule Act, subject to approval by voter referendum.

¹¹ This is an alternative to a provision that was included in the District's FY2013 budget request. That proposal would have granted the District some level of budget autonomy in the expenditure of local funds if Congress failed to pass, and the President failed sign a District of Columbia appropriations act before the beginning of the 2013 fiscal year. The provision would have allowed the District to obligate and expend local funds at the rate set forth in the act during the period in which there is an absence of a federal appropriations act authorizing the expenditure of local funds. Similar language was included in a Senate bill, S. 3301, recommending appropriations for FY2013 as reported by the Senate Appropriations Committee. See S. 3301, Title VIII, § 815. The provision was also supported by the Administration. (See Executive Office of the President, U.S. President [Obama], "Statement of Administration Policy: *H.R. 6020 – Financial Services and General Government Appropriations Act, 2013*," June 28, 2012, p. 4, http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saphr6020r_20120628.pdf.)

- no longer subject proposed charter amendments to the 35-day congressional review period;
- no longer subject the District's borrowing authority to the congressional appropriations process; and
- shorten the congressional review period (which currently allows Congress 30 legislative days to review non-criminal-code legislation passed by the District of Columbia Council and 60 days for legislation related to criminal offenses, procedures, and prisoners) by eliminating language that excludes Saturdays, Sundays, holidays, and any day on which neither chamber is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days beginning on the day the legislation is transmitted to the House or Senate.

Congressional Action

Senate Committee Bill, S. 1371

On July 25, 2013, the Senate Appropriations Committee reported S. 1371, its version of the Financial Services and General Government Appropriations Act for FY2014, with an accompanying report (S. Rept. 113-80). As reported, the bill recommended \$676.2 million in special federal payments to the District. This is approximately \$700,000 more than appropriated for FY2013, and \$1.5 million less than requested by the Administration. The bill includes \$9.4 million more in funding for court operations than requested by the Administration, but \$7.4 million less than appropriated in FY2013. It would appropriate \$10 million less than the President's FY2014 request, or \$17.7 million less than the FY2013 appropriated amount for elementary and secondary education initiatives. These funds would be allocated among three specific initiatives: public school improvements (\$30 million), support for public charter schools (\$20 million), and funding a private school voucher program (\$2.2 million for evaluation and administration activities). The Senate report accompanying the bill notes that there are sufficient unexpended funds available from previous appropriations to meet the needs of the program.

General Provisions

The Senate committee bill's general provisions mirror some of the language included in the House committee bill. Like the House committee bill, S. 1371 includes provisions governing budgetary and fiscal operations and controls. It also includes provisions restricting or prohibiting the use of federal funds to support District statehood or congressional voting representation and includes provisions that would continue prohibiting 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 three provisions that city officials have sought to eliminate or modify. The bill would

- continue the prohibition against the use of federal funds to provide abortion services;
- prohibit the use of federal funds to regulate and decriminalize the medical use of marijuana; and
- maintain the current prohibition on the use of federal funds to support a needle exchange program.

The Senate committee bill includes provisions not included in previous District of Columbia appropriations acts passed by Congress that would amend the District's home rule charter. The Senate measure would grant the city fiscal year and budget autonomy over the expenditure of locally raised funds, an action long sought by District officials. Specifically, the Senate measure would decouple the District's fiscal year from the federal fiscal year and would grant the District the authority to spend local funds if Congress has not enacted a federal appropriation authorizing the expenditure of local funds before the start of the District's fiscal year.

House Committee Bill, H.R. 2786

On July 17, 2013, the House Appropriations Committee approved the Financial Services and General Government Appropriations Act of 2014, H.R.2786, with an accompanying report (H. Rept. 113-172). The bill includes \$635.8 million in special federal payments to the District. This is \$38.3 million less than appropriated for FY2013, \$40.5 million less than requested by the Obama Administration, and \$39 million less than recommended by the Senate committee bill. The bill does not include funding for the District's Water and Sewer Authority, and includes a substantial decrease (\$20 million) in the amount that would be appropriated for the Resident Tuition Support (college access) program. The bill also would direct \$54 million in funding to support the District of Columbia Public Schools (\$18 million), public charter schools (\$18 million), and private school vouchers (\$18 million).

General Provisions

Like its Senate counterpart, the House committee 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 budget for all District government agencies and the District public schools within 30 days after the passage of the bill.

The House committee bill also includes several general provisions relating to statehood or congressional representation for the District, including provisions that would continue prohibiting 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.

Unlike the Senate committee bill, H.R. 2786 would prohibit the use of both District and federal funds for abortion services. In addition, the bill would continue to prohibit the use of federal funds to administer needle exchange or to decriminalize or regulate the medical use of marijuana. Despite the federal prohibition, on June 12, 2012, the city announced the certification of four privately operated medical marijuana dispensaries.¹² The first dispensary opened on July 29, 2013.¹³

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. As noted in the sections above, the Obama Administration budget proposal for FY2014 includes a request for \$676.3 million in special federal payments for the District of Columbia. The Financial Services and General Government Appropriations Act for FY2014, H.R. 2786, as reported by the House Appropriations Committee on July 17, 2013, included \$635.8 million in special federal payments to the District of Columbia. One week later, on July 25, 2013, the Senate Appropriations Committee reported its version of the Financial Services and General Government Appropriations Act, S. 1371. The Senate committee bill recommended \$674.8 million in special federal payments for the District of Columbia.

Table 2 shows details of the District's federal payments, including the FY2013-enacted amounts, the amounts included in the President's FY2014 budget request, and the amounts recommended by the House and Senate Appropriations Committees.

¹² District of Columbia Department of Health, "DC Department of Health Notifies Applicants Eligible to Register for Medical Marijuana Dispensaries," press release, June 12, 2012, <http://newsroom.dc.gov/show.aspx/agency/doh/section/2/release/23453/year/2012>.

¹³ Ryan J. Reilly and Nick Wing, "Washington, D.C.'s First Medical Marijuana Dispensary Opens Blocks From Capitol," *Huff Post*, July 30, 2013, http://www.huffingtonpost.com/2013/07/30/washington-dc-medical-marijuana-dispensary_n_3676943.html.

**Table 2. District of Columbia Appropriations, FY2013-FY2014:
Special Federal Payments**

(in millions of dollars)

	FY2013 Enacted	FY2014 Request	FY2014 District Request	FY2014 House Committee	FY2014 Senate Committee	FY2014 Enacted
Resident Tuition Support	29.940	35.000	35.000	15.000	35.000	
Emergency Planning and Security	24.651	14.900	14.900	14.900	14.900	
District of Columbia Courts	232.375	222.667	222.667	232.841	232.137	
Defender Services	54.890	49.890	49.890	49.890	49.890	
Court Services and Offender Supervision Agency	212.557	227.968	227.968	225.000	227.968	
Public Defender Service	37.167	40.607	40.607	39.000	40.607	
Criminal Justice Coordinating Council	1.796	1.800	1.800	1.800	1.800	
Judicial Commissions	0.499	0.500	0.500	0.500	0.500	
Water and Sewer Authority	14.970	14.500	14.500	—	14.500	
School Improvement	59.880	52.200	52.200	54.000	42.200	
<i>Public Schools</i>	<i>19.960</i>	<i>30.000</i>	<i>30.000</i>	<i>18.000</i>	<i>20.000</i>	
<i>Public Charter Schools</i>	<i>19.960</i>	<i>20.000</i>	<i>20.000</i>	<i>18.000</i>	<i>20.000</i>	
<i>Education Vouchers-linked activities</i>	<i>19.960</i>	<i>2.200</i>	<i>2.200</i>	<i>18.000</i>	<i>2.200</i>	
D.C. National Guard	0.374	0.500	0.500	0.375	0.500	
D.C. Comm. on Arts and Hum.	—	1.000	1.000	—		
St. Elizabeth Hospital Campus Redevelopment	—	9.800	9.800	—	9.800	
HIV/AIDS Prevention	4.990	5.000	5.000	2.500	5.000	
Special Federal Payments (total)	674.089	676.332	676.332	635.806	674.802	

Sources: FY2013 Enacted, FY2014 Request, and FY2014 committee recommendations are taken from H.Rept. 113-172 accompanying H.R. 2786, the Financial Services and General Government Appropriations Act for FY2014 and S.Rept. 113-80, accompanying S. 1371, the Financial Services and General Government Appropriations Act, FY2013. Columns may not equal the total due to rounding.

Local Operating Budget

As noted previously, the District's General Fund Budget for FY2014, which was signed by the mayor on July 24, 2013, as A20-0127, was incorporated by reference in both the House and Senate committee bills (H.R. 2786 and S. 1371) for the purpose of congressional review and approval. The District's FY2014 General Fund Budget totaled \$12.2 billion, including \$10.1 billion for operating expenses and \$2.1 billion for enterprise funds (**Table 3**). Of the \$12.2 billion budgeted for operating expenses, \$961.8 million is projected to be derived from federal grants and \$1.918 billion from Medicaid payments.

Table 3. Division of Expenses: District of Columbia Funds: FY2014

(in millions of dollars)

	District	House	Senate	Final
General Fund				
Gov. Dir. & Support	682.775	—	—	
Econ. Dev. and Reg.	436.947	—	—	
Public Safety and Justice	1,147.898	—	—	
Public Education	2,055.594	—	—	
Human Support Services	4,088.014	—	—	
Public Works	649.555	—	—	
Financing and Other	1,037.959	—	—	
Gen. Oper. Exp.	10,098.742	10,98.742	10,98.742	
Enterprise Funds				
WASA	479.543	—	—	
Wash. Aqueduct	64.592	—	—	
Lottery	253.000	—	—	
Retirement Board	30.338	—	—	
Convention Center	114.585	—	—	
Housing Fin. Agency	9.689	—	—	
Univ. D.C.	141.850	—	—	
Library Trust Fund	0.017	—	—	
Unemploy. Ins. Trust Fund	480.000	—	—	
Housing Prod. Trust Fund	142.676	—	—	
Tax Increment Fin.	63.931	—	—	
Baseball Fund	86.970	—	—	
Repayment of PILOT	16.341	—	—	
Not-for-Profit Hospital Corp.	110.000	—	—	
Health Benefit Exchange	66.140	—	—	

	District	House	Senate	Final
Authority				
Tot. Enterp. Fund	2,059.672	2,059.672	2,059.672	
Tot. Oper. Exp.	12,158.414	12,158.414	12,158.414	
Capital Outlay				
Cap. Construction	2,756.433	—	—	
—Rescissions	558.139	—	—	
Tot. Cap. Outlay	2,198,294	2,198,294	2,198,294	

Source: District of Columbia Fiscal Year 2014 Budget Request Act of 2013, H.R. 2786 and S. 1371.

General Provisions: Key Policy Issues

Needle Exchange

Addressing the spread of HIV and AIDS among intravenous drug abusers is one of several key policy issues that Congress has faced in reviewing the District's appropriations for FY2014. 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, opponents 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 restrictions. Congress also faces the decision of whether or not to use federal funds to address this issue.

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 thus from 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 in the district. 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, had 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 that 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.

The President's budget proposal for FY2014 and related House and Senate committee bills include language that would retain language included in the FY2013 appropriations act that allowed the use of District funds, but prohibited the use of federal funds, in support of a needle exchange program.¹⁴

Medical Marijuana

The city's medical marijuana initiative is another issue that has engendered 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.¹⁵ 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

¹⁴ During consideration of FY2013 Financial Services and General Government Appropriations Act, H.R. 6020, the Obama Administration, in a Statement of Administration Policy issued on June 28, 2012, urged the House to remove language prohibiting the District from using federal funds in support of a needle exchange program arguing that current federal law allows the use of federal funds for such programs to prevent or limit the spread of HIV/AIDS among intravenous drug users. (See Executive Office of the President, U.S. President [Obama], "Statement of Administration Policy: H.R. 6020 – Financial Services and General Government Appropriations Act, 2013," June 28, 2012, p. 4, http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saphr6020r_20120628.pdf.)

¹⁵ Turner v. District of Columbia Board of Elections and Ethics, No. 98-2634 Civ. (D.D.C. Sept. 17, 1999; memorandum opinion).

included in P.L. 106-113 (113 Stat. 1530), the District of Columbia Appropriations Act for FY2000. Opponents of the provision contended 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 had been included in the general provisions of each District appropriations act since 1998 prohibited it from using public funds to do preliminary work that would have 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.¹⁶ 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 states¹⁷ and the District of Columbia that have decriminalized or permitted the use of marijuana for medical or therapeutic purposes.¹⁸

Since the passage of District of Columbia Appropriations Act for FY2010, subsequent appropriations acts have not included language prohibiting the use of District funds to regulate the medical use of marijuana. In 2010, the District of Columbia Council approved legislation (A18-0429) regulating the medical use of marijuana. Although the legislation was subject to 30-day congressional review period, which would have allowed Congress to pass a resolution of disapproval, Congress took no action to block its implementation. The legislation directed the city's Health Department to license up to five facilities to dispense medical marijuana to authorized patients. The first of those dispensaries began operations on July 30, 2013.

Both the House and Senate committee bills (H.R. 2786 and S. 1371) would continue to prohibit the use of federal funds to carry out any law or regulation that would legalize or reduce federal penalties associated with the use or distribution of any controlled substance, including the medical use of marijuana.¹⁹

¹⁶ 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).

¹⁷ 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.

¹⁸ *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.

¹⁹ For additional information on medical marijuana and federal enforcement, see CRS Report WSLG664, *Obama Administration Will Not Challenge State Marijuana Laws That Do Not Undermine Federal Enforcement Priorities*, by Brian T. Yeh, and CRS Report WRE00062, *Legalization of Marijuana for Medical and Recreational Purposes*, by Todd Garvey and Brian T. Yeh.

Abortion Services

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 have cited 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 woman'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 woman'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, were endorsed by President Reagan, who threatened to veto the District's appropriations act if the abortion provision was not modified.²⁰ 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. 1278) after insisting that Congress include language prohibiting the use of District revenues to pay for abortion services except in cases where the woman's life was endangered.²¹

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 woman's life was endangered or cases where the pregnancy was the result of rape or incest.

In FY2010, with the passage of P.L. 111-117, Congress lifted the prohibition on the use of District funds for abortion services, but maintained the restriction on the use of federal funds for such services except in cases of rape, incest, or a threat to the life of the woman. The position was reversed with the passage of the appropriations acts for FY2011 (P.L. 112-10) and FY2012 (P.L. 112-74). Those acts included provisions restricting the use of both federal and District funds for abortion services, except in instances of rape, incest, or the woman's life was endangered if the pregnancy was carried to term.

During the 112th Congress, two bills were considered in the House that would have banned or restricted the provision of abortion services in the District of Columbia. On May 4, 2012, the House passed H.R. 3, the No Taxpayer Funding for Abortions Act. The measure included a provision (Section 309) that would have permanently prohibited the use of federal and District funds for abortion services, except in instances of rape, incest, or a threat to the life of the woman.

²⁰ "District Policies Hit Hard in Spending Bill," *Congressional Quarterly Almanac*, vol. XLIV (Washington: Congressional Quarterly, Inc., 1988), p. 713.

²¹ "D.C. Bill Vetoed Twice Over Abortion Funding," *Congressional Quarterly Almanac*, vol. XLV (Washington: Congressional Quarterly, Inc., 1989), p. 757.

On June 17, 2012, the House Judiciary Committee ordered reported H.R. 3803, the District of Columbia Pain-Capable Unborn Child Protection Act. The bill would have permanently banned doctors and health facilities from performing abortions in the District after the 20th week of pregnancy, except when the pregnancy would result in the woman suffering from a physical disorder, injury, or illness that endangers her life. It would have imposed fines and imprisonment on doctors who violated the act and would have allowed the pregnant woman, the father of the unborn child, or maternal grandparents of a pregnant minor to bring a civil action against any person who performed an abortion after the 20th week of pregnancy. The act would have required any physician that performs an abortion to report specific information to the relevant health agency in the District, including post-fertilization age of the fetus and the abortion method used. The District health agency would have been required to compile such information and issue an annual report to the public. The District's delegate to Congress, Eleanor Holmes Norton, though not allowed to testify before the Committee, spoke out against the measures as infringements on home rule.²²

The Obama Administration's FY2014 budget request includes a provision that would prohibit the use of federal funds for abortion services except in cases of rape, incest, or when the mother's life would be endangered if the pregnancy were carried to term, but does not include language that would restrict the use of District funds for abortion services. S. 1371, as reported, supports the Administration position restricting the use of federal funds. H.R. 2786, as reported, includes language that would restrict the use of both federal and District funds for abortion services, except in instances of rape, incest, or when the woman's life is endangered.

District of Columbia Opportunity Scholarship Program²³

The Consolidated Appropriations Act for FY2004, P.L. 108-199, which combined six appropriations bills—including the FY2004 District of Columbia Appropriations Act—authorized and appropriated funding for the Opportunity Scholarship program, a federally funded school voucher program for the District of Columbia. The program provides scholarships (also known as vouchers) to students in the District of Columbia to attend participating private elementary and secondary schools, including religiously affiliated private schools. P.L. 108-199 also provided funding for the District of Columbia Public Schools (DCPS) for the improvement of public education and for the State Education Office for public charter schools. The provision of federal funds for DCPS, public charter schools, and vouchers is commonly referred to as the “three-prong approach” to supporting elementary and secondary education in the District of Columbia.

The Opportunity Scholarship program was subsequently reauthorized through the Scholarship for Opportunity and Results Act (division C of the Department of Defense and Full-Year Continuing Appropriations Act, 2011; P.L. 112-10). Appropriations for the program were authorized for FY2012 through FY2016 at \$60 million each year. P.L. 112-10 requires that appropriations provided for the program to be divided evenly among DCPS for the improvement of public education, public charter schools to improve and expand quality public charter schools, and the Opportunity Scholarship program, regardless of the actual amount appropriated. Thus, the

²² Representative Eleanor Holmes Norton, “District of Columbia Pain-Capable Unborn Child Protection Act, H.R. 3803,” House debate, *Congressional Record*, July 31, 2012, p. H5445.

²³ This section was authored by Rebecca Skinner and Erin Lomax. For more information on the DC Opportunity Scholarship Program, see CRS Report R40574, *District of Columbia Opportunity Scholarship Program: Implementation Status and Policy Issues*, by Rebecca R. Skinner and Erin D. Lomax.

reauthorized Opportunity Scholarship program continues to be included in a broader approach to supporting elementary and secondary education in the District of Columbia.

The Obama Administration's proposed budget for FY2014 includes \$30 million for DCPS, \$20 million for public charter schools, and \$2.2 million to carry out evaluation and administrative activities of the program support the Opportunity Scholarship program.²⁴ S. 1371, as reported, would provide a total of \$52.2 million for a federal payment for school improvement. Rather than dividing these funds equally between the aforementioned three prongs, funds would be provided as follows: \$30 million for DCPS, \$20 million for public charter schools, and \$2.2 million for the Opportunity Scholarship program. H.R. 2786, as reported, would provide \$54 million for a federal payment for school improvement, with \$18 million provided to each of the three prongs.

Local Budget Autonomy

In 1973, Congress granted the city limited home rule powers and empowered citizens of the District to elect a mayor and city council. At the same time, however, Congress retained the power to review and approve all District laws, including the District's annual budget. Under the District's home rule charter, the mayor must submit operating and capital budgets to the city council for review and adoption by a date specified by the council. The council must act on the budget within 56 calendar days of receiving the budget from the mayor. The mayor then forwards the approved budget to the President, who transmits it to Congress. Once forwarded to Congress, the District's budget moves through the congressional appropriations process. This typically includes subcommittee hearings, which may take place before the actual budget submission to Congress; subcommittee and committee markups in the House and the Senate; committee reports and votes; floor action; conference report consideration; and final passage.²⁵ All of this is supposed to happen within approximately 120 calendar days before the beginning of the District's fiscal year on October 1.

District of Columbia political leaders have consistently expressed concern that Congress has repeatedly delayed passage of the appropriations act for the District (in which Congress approves the city's budget) well after the start of the District's fiscal year. The city's elected leaders contend that delay in Congress's approval of its budget hinders their ability to manage the District's financial affairs and negatively affects the delivery of public services.

During the past 18 years, approval of the District's annual budget has been delayed by complications in the congressional appropriations process. Rather than being enacted on its own, the District of Columbia appropriations act has often been folded into omnibus or consolidated appropriations acts, and continuing resolutions. As documented in **Table 4**, FY1997 was the only

²⁴ The Administration budget notes that funds were not needed for the Opportunity Scholarship program as funds remaining from prior fiscal years were sufficient to support voucher recipients through the 2014-2015 school year. (Office of Management and Budget, *Fiscal Year 2014 Appendix, Budget of the U.S. Government*, 2013, pp. 1228-1229, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/appendix.pdf> <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/appendix.pdf>.)

²⁵ Currently, the committees of jurisdiction are the House Committee on Oversight and Government Reform, Subcommittee on the Federal Workforce, Postal Service, and District of Columbia; the House Committee on Appropriations, Subcommittee on Financial Services and General Government; the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia; and the Senate Committee on Appropriations, Subcommittee on Financial Services and General Government.

year out of the past 18 years for which the D.C. appropriations act was enacted before the start of the fiscal year (on October 1 of the prior-numbered year).

Table 4. Date of Enactment of the D.C. Appropriations Act, FY1996-FY2013

Fiscal Year	P.L. Number	Date of Enactment	Remarks
1996	104-134	April 26, 1996	Five general continuing resolutions and three laws targeted to D.C. preceded this final omnibus appropriations act.
1997	104-194	September 9, 1996	The District's initial budget request was rejected by the Financial Control Board. It was cut and revised before being submitted to the President and the Congress. The Omnibus Consolidated Appropriations Act for FY1997, P.L. 104-208, also contained several provisions regarding D.C. public schools.
1998	105-100	November 19, 1997	During part of the complicated approval process, the D.C. bill was combined with two other appropriations bills. A controversial school scholarship proposal was split off as a separate bill. Between Oct. 1 and Nov. 19, the District was covered under successive continuing resolutions on appropriations.
1999	105-277	October 21, 1998	D.C. was one of eight regular appropriations bills included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. From Oct. 1 through Oct. 21, D.C. was covered under five general continuing resolutions.
2000	106-113	November 29, 1999	The D.C. bill was included with four other appropriations measures in the Consolidated Appropriations Act, 2000. This was the third D.C. appropriations bill for FY2000 approved by Congress. Two previous bills were vetoed by President Clinton.
2001	106-522	November 22, 2000	Enactment of the D.C. appropriations bill was delayed nearly one month because it was first combined with another appropriation in a bill vetoed by President Clinton.
2002	107-96	December 21, 2001	Congressional approval of D.C. appropriations was delayed by efforts to resolve differences between the House and Senate over "general provisions" addressing social policy and to eliminate redundant or obsolete provisions.
2003	108-7	February 20, 2003	The 107 th Congress did not complete action on D.C.'s and 10 other appropriations bills for FY2003 before it adjourned at the end of 2002. Eight continuing resolutions froze spending by the District and federal agencies at the FY2002 level until the 108 th Congress approved the Consolidated Appropriations Resolution, 2003, encompassing 11 appropriations acts.
2004	108-199	January 23, 2004	The Consolidated Appropriations Act, 2004, including the D.C. and six other appropriations acts, was not enacted until the second session of the 108 th Congress. Five continuing resolutions were enacted to cover the District and affected federal agencies for the first four months of FY2004.
2005	108-335	October 18, 2004	The D.C. Appropriations Act was enacted on its own, just a few weeks after the start of the fiscal year.
2006	109-115	November 30, 2005	D.C. appropriations were included together with five other appropriations in a consolidated appropriations act enacted two months after the start of the fiscal year.

Fiscal Year	P.L. Number	Date of Enactment	Remarks
2007	110-5	February 5, 2007	The D.C. bill was combined with six other appropriations bills, but that consolidated bill was not enacted. Ultimately, the government operated under continuing appropriations resolutions for the entire fiscal year.
2008	110-161	December 26, 2007	On September 29, 2007, the President signed a continuing budget resolution, P.L. 110-92, that included a provision allowing the District to spend local funds at a rate consistent with amounts identified in the District's FY2008 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia on June 7, 2007, and amended on June 29, 2007. The Financial Services and General Government Appropriations Act, which included the D.C. Appropriations Act, was ultimately included in the Consolidated Appropriations Act of 2008, P.L. 110-161.
2009	111-8	March 11, 2009	On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, P.L. 110-329. The act included a provision allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2009 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia on June 9, 2008.
2010	111-117	December 16, 2009	On October 1, 2009, the President signed the Continuing Appropriations Resolution for FY2010, P.L. 111-68. The act included a provision (Division B, Sec. 126) allowing the District of Columbia government to spend locally generated funds at a rate set forth in the budget approved by the District of Columbia on August 26, 2009.
2011	112-10	April 15, 2011	Provision was included in Department of Defense And Full-Year Continuing Appropriations Act, 2011, P.L. 112-10, allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2011 Budget Request Act (D.C. Act 18-448).
2012	112-74	December 23, 2011	On September 30, 2011, President signed a Continuing Budget Resolution, P.L. 112-34, allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2012 Budget Request Act (D.C. Act 19-92).
2013	113-6	March 26, 2013	On September 28, 2012, because no regular FY2013 District of Columbia appropriations bill could be enacted before October 1, 2012, Congress included language allowing the District of Columbia to expend local funds for programs and activities under Title IV of H.R. 6020 (112 th Congress), as reported by the House Committee on Appropriations, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2013 Budget Request Act of 2012 (D.C. Act 19-381), as modified as of the date of the enactment of this joint resolution.

Source: CRS.

The Senate committee version of the Financial Services and General Government Appropriations Act for FY2014, S. 1371, consistent with language included in the Administration's FY2014 budget documents, includes provisions that would provide the District with some level of autonomy over locally raised revenues. Specifically, the bill would

- permit the District to decouple its fiscal year from the federal fiscal year allowing the District to establish when its local fiscal year would start;
- permit District officials to obligate and expend local funds upon enactment by the District of its local annual budget; and
- grant the District the authority to spend local funds if Congress has not enacted a federal appropriation authorizing the expenditure of local funds before the start of the District's fiscal year.

The House committee bill, H.R. 2786, does not include similar language.

FY2014 Funding Lapse

To mitigate the impact of congressional delays in the approval of the District's appropriation before the beginning of a fiscal year, Congress has routinely included language in continuing budget resolutions allowing the District to expend local funds on programs and activities included in its General Fund budget. Before the beginning of FY2014 fiscal year, Congress did not approve the District of Columbia Appropriation for FY2014. As a stopgap measure, on October 2, 2013, the House considered and passed H.J.Res. 71, the District of Columbia Continuing Appropriations Resolution, 2014, which would allow the District to use locally raised revenues to fund District operations through December 15, 2013. The Senate has not yet taken up consideration of the bill.

City officials have continued to press the Senate to consider the bill passed by the House, contending that a \$144 million contingency fund used to keep the city operating would soon be exhausted, forcing the furloughing of all but essential city personnel. Mayor Vincent Gray has asserted that the absence of a congressionally approved budget has forced the city to delay payments to Metro and may force a delay in payments to the District's 60 charter schools.²⁶

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²⁶ Executive Office of the Mayor, District of Columbia, "Citing District's Suffering Due to Federal Shutdown, Mayor Gray Demands Meeting with President, Congressional Leaders," press release, October 8, 2013, <http://mayor.dc.gov/release/citing-district%E2%80%99s-suffering-due-federal-shutdown-mayor-gray-demands-meeting-president>.