

**Report 106-786 - DISTRICT OF COLUMBIA APPROPRIATIONS BILL,
2001**

DISSENTING VIEWS

From both a policy and fiscal perspective, the District of Columbia Appropriations Act for Fiscal 2001 is a step backwards from the progress made in last year's appropriations. Chairman Istook has been diligent in his efforts to ensure that the District and its elected leaders hold true to their commitment to reform the operations of the District. To its credit, the Republican majority left the District's own \$4.427 billion budget largely intact.

Unfortunately, the subcommittee allocation was \$34 million below the administration's request and \$26 million below last year's funding level. When this lower funding level is combined with the imposition of a new social rider that restricts the District's ability to implement its new health insurance law, the Health Insurance Coverage for Contraceptives Act of 2000, (D.C. Bill 13-399), this legislation should be opposed in its present form.

This Committee has found billions in the fiscal 2001 budget to reallocate. Yet it cannot find the \$34 million the Subcommittee needs to honor and fund the obligations Congress agreed to assume when it took over funding responsibility for the District's courts, its corrections and its pretrial and parole services. This lower allocation threatens to derail two critically needed economic development initiatives in the District: completion of the New York Avenue Metro Station and the Poplar Point Brownfield Remediation Project. It does not have the funds to extend the foster care adoption incentives, something the Subcommittee Chairman was instrumental in including in last year's bill. It even underfunds the operations and scheduled closure plans of the Control Board, the board established by Congress to oversee the District's finances.

Of particular concern is the majority's attempt to fund the New York Avenue subway project with some possible double counting. Lacking the allocation to provide the full \$25 million in Federal funds, the majority funds \$18 million of the project's Federal share with funds from the Control Board's accounts that may already be committed elsewhere in this budget. This subway project will cost \$75 million, with the private sector and the District's local budget already committed to contribute \$25 million each.

The minority also objects to the inclusion of two provisions that were never discussed or shared with the minority or the public until just one hour before the Subcommittee markup. The first provision gives charter schools a competitive advantage in acquiring surplus District property. The second

provision bars the Public Benefit Corporation from using its existing lines of credit to borrow funds above its budgeted amount. While the minority shares the majority's concerns about the grave financial condition of the Public Benefit Corporation, which operates D.C. General Hospital, emergency care services and health clinics for some of the District's poorest residents, it does not believe Congress, by fiat, should force its insolvency. Policy experts within the Control Board, the Mayor's office, and outside consultants, who are currently working on a remedy, were never consulted prior to inclusion of this provision. Moreover, the full ramifications of this provision are still not known but certain to disrupt and probably eliminate health care services to some of the District's neediest residents.

Finally, the Democratic minority regrets that once again this measure includes a series of provisions that violate the principle of democracy and home rule and restrict how the District may elect to use its own funds to address its own set of priorities.

Earlier this year, the minority wrote to the Subcommittee Chairman and suggested that the Subcommittee begin with a clean fiscal 2001 appropriations bill, clear of all last year's 76 general provisions. In other words, a true appropriations bill without the trappings of an authorization bill. The District and the President followed this recommendation. They bracketed complete sections of last year's bill that they recommended against including in this year's bill. The Administration's fiscal 2001 budget submission states that the Administration and the District have now concluded that Congress should not re-enact any of the 76 general provisions included in last year's Act, since all those provisions that advanced legitimate policy purposes are now addressed elsewhere in existing or proposed local or Federal law, and the remaining provisions are unnecessary or inappropriately interfere with local matters.'

The majority followed this request to only a limited extent, eliminating just 25 of the general provisions that were included in last year's bill. Unfortunately, the majority retained 51 of the 76 general provisions from last year and included 17 new general provisions.

Of the total included from last year, ten of these provisions should be deleted because they duplicate existing provisions of DC Code. For example: Section 101, which requires procurement contracts for consulting services to be public record, duplicates 1 DC Code 1183.19(b). Section 114, which requires Council approval of capital project borrowing, duplicates 47 DC Code 322, 327, 328, 340.3.

Twelve provisions should be deleted because they duplicate laws passed by the Council as part of this year's Budget Support Act, such as Section 104, which allows funds to be used for allowances for privately owned vehicles used for official duties. This section duplicates Section 3202 of the local

Budget Support Act. Section 118, which requires automobiles to be fuel efficient, duplicates Section 3402 of the Budget Support Act.

Thirteen provisions should be deleted because they are 'one time' provisions and are no longer applicable or duplicate existing Federal law. For example, Section 103, which states that appropriations are the maximum amount that can be expended for that purpose, is covered under Federal law (31 USC 1341(a)(1)). Section 109, which prohibits use of Federal funds for partisan political purposes, is covered by Federal law (31 USC 1301(a); 5 USC 7321 et seq.).

And finally, 16 of these general provisions from last year should be deleted to ensure that the District is treated the same as any other State or local jurisdiction. Some of these provisions may mandate useful fiscal practices, but the fact that Congress imposes these practices only on the District, and not any other jurisdictions, that they are elected to represent, strikes at the essence of the principle of home rule. Moreover, six of these sixteen provisions restrict how the District may elect to use even its own local funds or private funds.

Why must we single out this one local government and its residents and prohibit them from using local funds to support a needle exchange program, a program proven effective at reducing the spread of AIDS, when no other local government faces a similar restriction and when the greater growth in AIDS among women and children is attributable to the use of dirty needles? Why must we once again bar the District from using its own local funds to provide abortion services for its low-income residents, when we impose no similar restriction on any other jurisdiction? Why must we continue to prevent the District from implementing its local domestic partnership law, when more than 3,000 employers across the country have been able to extend health care coverage to their employees' domestic partners? Eight states have enacted medical marijuana laws similar to the one approved through a referendum by District residents in the spring of 1998. Congress has taken no action to block implementation in these eight state laws, only the District's. And finally, why can't the District use its own local funds to pursue a lawsuit to provide full representation in this institution?

Some may argue that these riders are merely an extension of current law. While this is technically correct, the context and circumstances with which Congress might have justified past intervention is now gone with the elimination of the direct Federal payment. Federal taxpayer funds are no longer involved with these activities. Congress should, therefore, no longer concern itself with the actions of one local jurisdiction, the District, unless it is prepared to impose identical restrictions on all local governments.

The Democratic minority is pleased that a majority of the full committee shared this perspective on at least one restriction when it approved an amendment by Rep. Dixon to permit the District to use its own local funds to

revive its needle exchange program. This progress, however, was offset by the adoption of an amendment that will block the District from implementing the Health Insurance Coverage for Contraceptives Act of 2000, requiring the District to adopt a separate law that must include an opt-out on 'moral or religious grounds.' In principle, the minority opposes any Federal restriction on the District's proposed local law.

The Democratic minority encourages the House to respect the District's right to pursue its own prerogatives with its own funds regardless of how members might feel about the merits of the specific local initiative. We should refrain from imposing any additional restrictions on the District's use of its own funds and support possible floor amendments that seek to remove these unwarranted restrictions that still remain.

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