

The motion to lay on the table was agreed to.

Mr. BOND. I ask unanimous consent the Senate insist upon its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed Mr. BOND, Mr. BURNS, Mr. SHELBY, Mr. CRAIG, Mr. DOMENICI, Mr. DEWINE, Mrs. HUTCHISON, Mr. STEVENS, Ms. MIKULSKI, Mr. LEAHY, Mr. HARKIN, Mr. BYRD, Mr. JOHNSON, Mr. REID, and Mr. INOUE conferees on the part of the Senate.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2004

Mr. BOND. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 2765, the D.C. Appropriations bill; further, that an amendment that is at the desk regarding title II be agreed to, the motion to reconsider be laid upon the table. I further ask that the substitute amendment then be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table; provided further that the Senate then insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

Ms. LANDRIEU. Reserving the right to object, I do intend to make a few brief remarks and then will not object to the unanimous consent, but I would like to speak for as much time as I might consume. Hopefully, it will not be more than about 7 to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized on her reservation.

Ms. LANDRIEU. Mr. President, I first compliment Senator DEWINE for the outstanding job he has done. He is in a meeting and is not in the Senate at this moment, but we have worked closely together in our capacity now as chair and ranking member, as when I chaired the committee and he served as the ranking member. We have worked together through many different issues. I cannot say enough about his commitment to helping steer a bill that in many instances is contentious—not necessarily because of anything related to the District of Columbia specifically, but of other ideas and ideologies that sometimes find their way into this bill. He and I are both very sensitive to that and support the new leadership team of the District and have tried our best to steer this bill

through for the District as well as for the Nation.

I wanted to begin by complimenting him and also say, second, there are some terrific new initiatives in this bill, very much needed. One, led by Senator DEWINE, is the continued effort to reform the foster care system, first acknowledging the Mayor himself has taken quite a leadership role and has appointed very able leaders in the District to take a system that is broken, that was in many ways completely dysfunctional, and to begin to bring framework, parameters, results to it which will literally save children's lives, heal families, and find homes for children who have no homes.

Senator DEWINE and I believe, along with Mayor Williams, there is no such thing as an unwanted child; there are just unbound families. There are indeed families not only in the District of Columbia but around the Nation which are in need of our assistance, our charity, our help, and our care. When we cannot heal a family and keep them strong to raise the children born to them, it is our responsibility to find a new family for that child or that sibling as quickly as possible. We will not stop until it is achieved. Senator DEWINE has provided some additional framework in which to make that possible.

In addition, I am very pleased, along with Senator BYRD, who chaired this committee for many years, that there is also a critical infrastructure piece which indicates we as a Congress have a responsibility, in that the District is not a State, it does not have a State government but it has the same needs, and Congress has stepped up for infrastructure investments in the District which benefit the whole region—Maryland and Virginia as well. One of the primary projects we have funded is the cleanup of the Anacostia waterway which affects the region. It is a major environmental project getting tremendous help and support in this bill.

The security enhancements for emergency planning for the District, I need not tell of its importance. It is in the Nation's Capital, under the threat of terror, that we continue to function. We know how important that is. I begin with compliments to the Chair for including these and many other provisions.

I take the next 5 minutes to lay down some other important points regarding the most contentious issue in this bill. This issue was at the core or center of the debate over the future of public education in the United States of America. It has to do with a proposal of vouchers, taking money from public schools to send children to private schools. That issue is the center of debate over the future of public schools in America. It is that issue, unfortunately, because of the nature of the process in the Senate, which is going to be put into the omnibus appropriations bill. I want to go on record as strongly objecting to it once again and to set the myths from the facts.

The first myth is: The voucher proposal does not drain money from public schools or from other Federal priorities, that this is "new" money.

For the record, the \$40 million used to pay for this three-pronged approach—of which a third is for vouchers—was taken from the Commerce-Justice-State bill. In other words, that is \$39 million less spent on law enforcement, homeland security, or health care.

Again, this is not new money. There were no new taxes raised. There were no new taxes identified to pay for this. This \$39 million came out of already existing Federal revenues that are now going to fund vouchers for 1,500 children in the District of Columbia. It is not new money. It is coming from the Commerce-Justice-State bill. I contend unless a new tax is raised at the Federal level or in the District of Columbia, it is not new money. It is a myth.

The next myth I would like to put to rest is the voucher proposal is limited to children in failing schools. Some of us who have opposed this proposal, without certain amendments, have continued to say—not everybody on the Democratic side, for sure, but I have said, as the ranking member, I could support a program that had full accountability and was aimed at helping children in failing schools. Why? Because it is not their fault the schools have failed. It is our fault. It is not necessarily their parents' fault, because parents do not run the schools. Parents are busy trying to run their households, take care of their children, and sometimes work two or three jobs. If we have failed the children, then let us give them help as we reconstitute those schools under the new accountability proposal, and give them some temporary help to move to a school that might be performing.

I offered that proposal. It was rejected. This proposal is not limited or designed specifically for children in failing schools because the power behind this wants to undermine public schools, not help poor children in failing schools. That is the truth.

The fact is, there is nothing in this language that prevents a child enrolled in a high-performing public school or a private school, for that matter, from attending a private school at public expense.

Let me repeat, there is nothing in the language the Republican majority is pushing that prevents a child enrolled in a high-performing public or private school from attending a private school at public expense, with no accountability to the public taxpayer.

The third myth is this is not just a voucher demonstration program; it is a balanced, three-pronged approach for school improvement.

The fact is, in the language pushed by the Republican majority, the only part of this three-pronged demonstration program that is authorized to receive funding for more than 1 year is the voucher portion. What is more, the

only one that will be evaluated for success at the end of 5 years is the voucher program.

First, let me say the only part of this demonstration program that is authorized in this bill to receive funding for more than 1 year is for vouchers. My opponents will say: Senator, the other funding is authorized in other parts of the education bill. That may be correct. Technically, it is correct. But in this proposal—that has been sold, and sold again, once, twice, and sold as a three-pronged approach—this language only has one prong that is authorized and funded, and that is vouchers. That is a fact, and that is wrong.

What is more, the proponents will say at least one good thing at the end of this 5-year “demonstration project” is, we will know definitively whether vouchers work or not. The fact is, Senator CARPER and I, who tried to negotiate a compromise, felt strongly that would be a very good benefit to know finally. Cleveland and Milwaukee have demonstrated with this. There is so much misinformation. We said, at least it would be worth it to our Democrats who oppose it and to Republicans who think vouchers are the answer, the only answer, to public schools in the Nation, and that is what they want. I think they are wrong. We said, let’s have a comprehensive demonstration program. But this language does not have the evaluation language. It dropped the evaluation language. The only thing we will know is, do children who receive vouchers do better in higher performing private schools than they did in poorly performing public schools? I would suggest we already know the answer to that. We do not have to spend \$13 million of taxpayer money that is unaccountable to find out. We already know the answer to that.

What we do not know the answer to is if children are given vouchers to leave a low-performing public school to go to a higher performing private school, or if those same children are given a chance in a higher performing public school, or if those same children are given a chance in a higher performing public charter school, do they do essentially better? Does the voucher itself, the essence of the voucher itself, have any bearing on the academic achievement of the child? That we do not know, and we will not find out, thanks to the language that is in this bill.

The fourth myth is: At the end of this 5-year demonstration program, we will finally know if vouchers are a solution. I spoke about that.

The fifth myth is: Vouchers help to improve student achievement. We will not know that after 5 years because of the language that was taken out.

In conclusion, there were some of us willing to support a true three-pronged demonstration program. This is only one prong. There were some of us who would be willing to say we could go through the demonstration if, at the

end, we actually knew and had the tight evaluation that would tell us some answers the country would be very interested in knowing. That language was dropped.

There were some of us who said, if accountability was part of this, as the administration promised—accountability, not just to the parents, and not just responsibility to students, but accountability to the taxpayers who pick up millions and millions of dollars—billions of dollars—in education expenses—they want to know, is their money working. But the authors—not Senator DEWINE, the chairman, but others who have pushed this—are obviously not interested in letting the taxpayers know if their money is actually accomplishing anything, because the test language and the accountability language has been dropped. It is a false hope.

I will conclude. When we make promises to people with power and money and status, and we do not keep those promises, that is bad enough. But when we offer false hope to children who have very little, to families which have been discriminated against, to poor people who have little, and we fail to keep those promises, that is a sin indeed. We should be ashamed of the actions that represent this bill today.

I withdraw my objection to the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2201) was agreed to, as follows:

AMENDMENT NO. 2201 TO AMENDMENT NO. 1783

Strike all of title II, beginning on page 14, line 17, and ending on page 33, line 14.

On page 13, line 21, strike “40,000,000” and insert “27,000,000”.

On page 14, line 1, strike all after the semicolon until the end of the heading.

On page 9, line 19, strike “20,000,000” and insert “33,000,000”.

The amendment (No. 1783) in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 2765), as amended, was read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2765) entitled “An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, \$17,000,000, to remain available until expended: Provided, That such

funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to \$2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident’s academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Resident Tuition Support Program Office and the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than 7 percent of the total amount appropriated for this program may be used for administrative expenses.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, \$15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of public safety expenses related to security events in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: Provided, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT FOR HOSPITAL BIOTERRORISM PREPAREDNESS IN THE DISTRICT OF COLUMBIA

For a Federal payment to support hospital bioterrorism preparedness in the District of Columbia, \$10,000,000, of which \$7,000,000 shall be for the Children’s National Medical Center in the District of Columbia for the expansion of quarantine facilities and the establishment of a decontamination facility, and \$3,000,000 shall be for the Washington Hospital Center for construction of containment facilities.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, \$172,104,000, to be allocated as follows: for the District of Columbia Court of Appeals, \$8,775,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, \$83,387,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Court System, \$40,006,000, of which not to exceed \$1,500 is for official reception and representation expenses; and \$39,936,000 for capital improvements for District of Columbia courthouse facilities: Provided, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: Provided further, That notwithstanding any other provision of law, all amounts under this heading

shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: Provided further, That funds made available for capital improvements may remain available until September 30, 2005: Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than \$1,000,000 of the funds provided under this heading among the items and entities funded under such heading.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in adoption proceedings under Chapter 3 of title 16, D.C. Code, payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code or pursuant to a contract with a non-profit organization to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, and payments for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$32,000,000, to remain available until expended: Provided, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: Provided further, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, and the Public Defender Service for the District of Columbia as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$173,396,000, of which not to exceed \$25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002, of which not to exceed \$2,000 is for official receptions and representation expenses related to Community and Pretrial Services Agency Programs; of which \$110,775,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include ex-

penses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which \$25,210,000 shall be transferred to the Public Defender Service for the District of Columbia to include expenses relating to the provision of legal representation and including related services provided to the local courts and Criminal Justice Act bar; and of which \$37,411,000 shall be available to the Pretrial Services Agency: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: Provided further, That notwithstanding chapter 33 of title 40, United States Code, the Director shall acquire by purchase, lease, condemnation, or donation, and renovate as necessary, Building Number 17, 1900 Massachusetts Avenue, Southeast, Washington, District of Columbia to house or supervise offenders and defendants, with funds made available for this purpose in Public Law 107-96: Provided further, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: Provided further, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: Provided further, That the Director is authorized to accept appropriation reimbursements from the District of Columbia Government for space and services provided on a cost reimbursable basis: Provided further, That these reimbursements are subject to approved apportionments from the Office of Management and Budget.

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Chief Financial Officer of the District of Columbia, \$33,000,000: Provided, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That each entity that receives funding under this heading shall submit to the Committees on Appropriations of the House of Representatives and Senate a report due March 15, 2004, on the activities carried out with such funds.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, \$3,500,000, of which \$500,000 shall be allocated to implement a downtown circulator transit system, and of which \$3,000,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, \$25,000,000, to remain available until expended, to continue implementing the Combined Sewer Overflow Long-Term Control Plan: Provided, That the District of Columbia Water and Sewer Authority provides a 100 percent match for the fiscal year 2004 Federal contribution.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia Department of Transportation, for implementation of the Anacostia Waterfront Initiative, \$6,000,000, to remain available until expended.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CAPITAL DEVELOPMENT

For a Federal payment to the District of Columbia for capital development, \$5,000,000, to remain available until expended, for the Unified Communications Center.

FEDERAL PAYMENT TO CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal payment to Children's National Medical Center, \$10,000,000, for construction costs associated with the expansion of a neonatal care unit, pediatric intensive care unit, and cardiac intensive care unit.

FEDERAL PAYMENT TO ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

For a Federal payment to St. Coletta of Greater Washington, Inc., \$2,000,000, for costs associated with establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for foster care improvements, \$14,000,000: Provided, That \$9,000,000 shall be for the Child and Family Services Agency, of which \$2,000,000 shall be to establish an early intervention unit to provide intensive and immediate services for foster children; of which \$1,000,000 shall be to establish an emergency support fund to purchase items necessary to allow children to remain in the care of an approved family member; of which \$3,000,000 shall be for a loan repayment program for social workers who meet certain agency-established requirements; of which \$3,000,000 shall be to upgrade the agency's computer database to a web-based technology and to provide computer technology for social workers: Provided further, That \$3,900,000 shall be for the Department of Mental Health to provide all court-ordered mental health assessments and treatments for children under the supervision of the Child and Family Services Agency: Provided further, That the Director of the Department of Mental Health shall ensure that court-ordered mental health assessments are completed within 15 days of the court order and that all assessments be provided to the Court within 5 days of completion of the assessment: Provided further, That the Director shall initiate court-ordered mental health services within 10 days of the issuance of an order: Provided further, That \$1,100,000 shall be for the Washington Metropolitan Council of Governments to develop a program to provide respite care for and recruitment of foster parents: Provided further, That the Mayor shall submit a detailed expenditure plan for the use of funds provided under this heading within 15 days of enactment of this legislation to the Committees on Appropriations of the House of Representatives and Senate: Provided further, That the funds provided under this heading shall not be made available until 30 calendar days after the submission to Congress of a spending plan: Provided further, That no part of this appropriation may be used for contractual community-based services: Provided further, That the Comptroller General shall prepare and submit to the Committees on Appropriations of the House and Senate an accounting of all obligations and expenditures of the funds provided under this heading: Provided further, That the Comptroller General shall initiate management reviews of the Child and Family Services Agency and the Department of Mental Health and submit a report to the Committees on Appropriations of the House and Senate no later than 6 months after enactment of this Act.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a School Improvement Program in the District of Columbia,

\$27,000,000, to be allocated as follows: for the State Education Office, \$13,000,000 to improve public school education in the District of Columbia; for the State Education Office, \$13,000,000 to expand quality charter schools in the District of Columbia.

AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out this Act such sums as may be necessary.

TITLE II—DISTRICT OF COLUMBIA FUNDS OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: Provided, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and provisions of this Act (D.C. Official Code, sec. 1-204.50a), the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2004 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$6,326,138,000 (of which \$3,832,734,000 shall be from local funds (of which \$96,248,000 shall be funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's fund balance funds), \$1,568,734,000 shall be from Federal grant funds, \$13,766,000 shall be from private funds, \$910,904,000 shall be from other funds) and \$109,500,000 from funds previously appropriated in this Act as Federal payments: Provided further, That an amount of \$263,759,000 shall be for Intra-District funds: Provided further, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: Provided further, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act: Provided further, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2004, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$284,415,000 (including \$206,825,000 from local funds, \$57,440,000 from Federal funds, and \$20,150,000 from other funds), in addition, \$20,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Chief Financial Officer of the District of Columbia", and \$1,100,000 from funds previously appropriated in this Act under the heading "Federal Payment for Foster Care Improvement in the District of Columbia": Provided, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, \$2,500 for the City Administrator, and \$2,500 for the Office of the Chief Financial Officer shall be available from this appropriation for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: Provided further, That not-

withstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be \$500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: Provided further, That an amount not to exceed \$25,000 of the funds in the Antifraud Fund established pursuant to section 820 of the District of Columbia Procurement Practices Act of 1985, effective May 8, 1998 (D.C. Law 12-104; D.C. Official Code, sec. 2-308.20), is hereby made available, to remain available until expended, for the use of the Office of the Corporation Counsel of the District of Columbia in accordance with the laws establishing this fund.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$276,647,000 (including \$53,336,000 from local funds, \$91,077,000 from Federal funds, \$125,000 from private funds, and \$132,109,000 from other funds), of which \$15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Official Code, sec. 2-1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12-26; D.C. Official Code, sec. 2-1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, \$745,958,000 (including \$716,715,000 from local funds, \$10,290,000 from Federal funds, \$9,000 from private funds, and \$18,944,000 from other funds): Provided, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

Public education system, including the development of national defense education programs, \$1,157,841,000 (including \$962,941,000 from local funds, \$156,708,000 from Federal grant funds, \$4,302,000 from private funds, and not to exceed \$6,816,000, to remain available until expended, from the Medicaid and Special Education Reform Fund), in addition, \$17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and \$26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia", to be allocated as follows:

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—\$870,135,000 (including \$738,444,000 from local funds, \$114,749,000 from Federal funds, \$3,599,000 from private funds, and \$6,527,000 from other funds) shall be available for District of Columbia Public Schools: Provided, That not-

withstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That this appropriation shall not be available to subsidize the education of any non-resident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2004, unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2004, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed \$2,500 for the Superintendent of Schools shall be available from this appropriation for official purposes: Provided further, That the District of Columbia Public Schools shall submit to the Board of Education by January 1 and July 1 of each year a Schedule A showing all the current funded positions of the District of Columbia Public Schools, their compensation levels, and indicating whether the positions are encumbered: Provided further, That the Board of Education shall approve or disapprove each Schedule A within 30 days of its submission and provide the Council of the District of Columbia a copy of the Schedule A upon its approval.

(2) STATE EDUCATION OFFICE.—\$38,752,000 (including \$9,959,000 from local funds, \$28,617,000 from Federal grant funds, and \$176,000 from other funds), in addition, \$17,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" and \$26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for the State Education Office: Provided, That of the amounts provided to the State Education Office, \$500,000 from local funds shall remain available until June 30, 2005 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(3) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—\$137,531,000 from local funds shall be available for District of Columbia public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: Provided further, That if the entirety of this allocation has not been provided as payments to any public charter school currently in operation through the per pupil funding formula, the funds shall be available as follows: (1) the first \$3,000,000 shall be deposited in the Credit Enhancement Revolving Fund established pursuant to section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996, approved September 20, 1996 (Public Law 104-208; 110 Stat. 3009; 20 U.S.C. 1155(e)); and (2) the balance shall be for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved November 19, 1997 (Public Law 105-100, section 172; D.C. Official Code, section 38-1804.03(b)(2)): Provided further, That of the amounts made available to District of Columbia public charter schools, \$25,000 shall be made available to the Office of the Chief Financial

Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38-1804.03(b)(6)): Provided further, That \$660,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2004, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2005.

(4) UNIVERSITY OF THE DISTRICT OF COLUMBIA.—\$80,660,000 (including \$48,656,000 from local funds, \$11,867,000 from Federal funds, \$703,000 from private funds, and \$19,434,000 from other funds) shall be available for the University of the District of Columbia: Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2004, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2004, an amount equal to 10 percent of the total amount provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2005 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2005: Provided further, That not to exceed \$2,500 for the President of the University of the District of Columbia shall be available from this appropriation for official purposes.

(5) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—\$28,287,000 (including \$26,750,000 from local funds, \$1,000,000 from Federal funds, and \$537,000 from other funds) shall be available for the District of Columbia Public Libraries: Provided, That not to exceed \$2,000 for the Public Librarian shall be available from this appropriation for official purposes.

(6) COMMISSION ON THE ARTS AND HUMANITIES.—\$2,476,000 (including \$1,601,000 from local funds, \$475,000 from Federal funds, and \$400,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, \$2,360,067,000 (including \$1,030,223,000 from local funds, \$1,247,945,000 from Federal funds, \$9,330,000 from private funds, and \$24,330,000 from other funds, of which \$48,239,000, to remain available until expended, shall be available for deposit in the Medicaid and Special Education Reform Fund established pursuant to the Medicaid and Special Education Reform Fund Establishment Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code 4-204.51 et seq.), in addition, \$12,900,000 from funds previously appropriated in this Act under the heading "Federal Payment to Foster Care Improvement in the District of Columbia": Provided, That the funds deposited in the Medicaid and Special Education Reform Fund are allocated as follows: no more than \$6,816,000 for District of Columbia Public Schools, no more than \$18,744,000 for

Child and Family Services, no more than \$7,795,000 for the Department of Human Services, and no more than \$21,700,000 for the Department of Mental Health: Provided further, That \$27,959,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That \$7,500,000 of this appropriation, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13-146; D.C. Official Code, sec. 7-3004) and used exclusively for the purpose of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13-146; D.C. Official Code, sec. 7-3003): Provided further, That no less than \$2,000,000 of this appropriation shall be available exclusively for the purpose of funding the pilot substance abuse program for youth ages 14 through 21 years established pursuant to section 4212 of the Pilot Substance Abuse Program for Youth Act of 2001 (D.C. Law 14-28; D.C. Official Code, sec. 7-3101): Provided further, That \$4,500,000 of this appropriation, to remain available until expended, shall be deposited in the Interim Disability Assistance Fund established pursuant to section 201 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 4-101; D.C. Official Code, sec. 4-202.01), to be used exclusively for the Interim Disability Assistance program and the purposes for that program set forth in section 407 of the District of Columbia Public Assistance Act of 1982 (D.C. Law 13-252; D.C. Official Code, sec. 4-204.07): Provided further, That no less than \$640,531 of this appropriation shall be available exclusively for the purpose of funding the Burial Assistance Program established by section 1802 of the Burial Assistance Program Reestablishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code, section 4-1001).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$327,046,000 (including \$308,028,000 from local funds, \$5,274,000 from Federal funds, and \$13,744,000 from other funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.50a), such amounts from local funds as are necessary to meet the balance requirements for such funds under such section.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1-204.62, 1-204.75, and 1-204.90), \$311,504,000 from local funds: Provided, That for equipment leases, the Mayor may finance \$14,300,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$3,000,000 from local funds.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the build-

ing located at One Judiciary Square, \$4,911,000 from local funds.

SETTLEMENTS AND JUDGMENTS

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, \$22,522,000: Provided, That this appropriation shall not be construed as modifying or affecting the provisions of section 103 of this Act.

WILSON BUILDING

For expenses associated with the John A. Wilson Building, \$3,704,000 from local funds.

WORKFORCE INVESTMENTS

For workforce investments, \$22,308,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable.

NON-DEPARTMENTAL AGENCY

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, \$19,639,000 (including \$11,455,000 from local funds, and \$8,184,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act: Provided, That \$5,000,000 in local funds shall be available to meet contractual obligations, and \$11,455,000 in local funds shall be for anticipated costs associated with the No Child Left Behind Act.

EMERGENCY PLANNING AND SECURITY COSTS

From funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia", \$15,000,000.

TRANSPORTATION ASSISTANCE

From funds previously appropriated in this Act under the heading "Federal Payment for Transportation Assistance", \$3,500,000.

PAY-AS-YOU-GO CAPITAL

For Pay-As-You-Go Capital funds in lieu of capital financing, \$11,267,000, to be transferred to the Capital Fund, subject to the Criteria for Spending Pay-as-You-Go Funding Amendment Act of 2003, approved by the Council of the District of Columbia on 1st reading, May 6, 2003 (Title 25 of Bill 15-218). Pursuant to this Act, there are authorized to be transferred from Pay-As-You-Go Capital funds to other headings of this Act, as necessary to carry out the purposes of this Act.

TAX INCREMENT FINANCING PROGRAM

For a Tax Increment Financing Program, \$1,940,000 from local funds.

CASH RESERVE

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (Public Law 107-96; D.C. Official Code, section 47-392.02(j)(2)), \$50,000,000 from local funds.

MEDICAID DISALLOWANCE

For making refunds associated with disallowed Medicaid funding an amount not to exceed \$57,000,000 in local funds to remain available until expended: Provided, That funds are derived from a transfer from the funds identified in the fiscal year 2002 comprehensive annual financial report as the District of Columbia's Grants Disallowance balance.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

For operation of the Water and Sewer Authority, \$259,095,000 from other funds, of which \$18,692,000 shall be apportioned for repayment of loans and interest incurred for capital improvement projects (\$18,094,000 and payable to the District's debt service fund).

For construction projects, \$199,807,000, to be distributed as follows: \$99,449,000 for the Blue

Plains Wastewater Treatment Plant, \$16,739,000 for the sewer program, \$42,047,000 for the combined sewer program, \$42,047,000 for the Combined Sewer Overflow Long-Term Control Plan, \$5,993,000 for the stormwater program, \$24,431,000 for the water program, and \$11,148,000 for the capital equipment program, in addition, \$25,000,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority".

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, \$55,553,000 from other funds.

STORMWATER PERMIT COMPLIANCE ENTERPRISE FUND

For operation of the Stormwater Permit Compliance Enterprise Fund, \$3,501,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3-172; D.C. Official Code, sec. 3-1301 et seq. and sec. 22-1716 et seq.), \$242,755,000: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, \$13,979,000 from local funds.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1-711), \$13,895,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$69,742,000 from other funds.

NATIONAL CAPITAL REVITALIZATION CORPORATION

For the National Capital Revitalization Corporation, \$7,849,000 from other funds.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of \$1,004,796,000, of which \$601,708,000 shall be from local funds, \$46,014,000 from Highway Trust funds, \$38,311,000 from the Rights-of-way funds, \$218,880,000 from Federal funds, and a rescission of \$99,884,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$904,913,000, to remain available until expended, in addition, \$5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Capital Development in the District of Columbia" and \$6,000,000 from funds previously appro-

riated in this Act for the "Anacostia Water-front Initiative": Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended.

TITLE III GENERAL PROVISIONS

SEC. 301. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 302. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 303. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Official Code, sec. 47-1812.11(c)(3)).

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 306. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, and salary are not available for inspection by the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Council of the District of Columbia, or their duly authorized representatives.

SEC. 307. None of the Federal funds provided in this Act may be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 308. (a) None of the Federal funds provided in this Act may be used to carry out lobbying activities on any matter.

(b) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any issue.

SEC. 309. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of \$1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriation.

SEC. 310. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 311. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Official Code, sec. 1-601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.22(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 312. No later than 30 days after the end of the first quarter of fiscal year 2004, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2004 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2005. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 313. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6-85; D.C. Official Code, sec. 2-303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 314. (a) In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not

specifically exempted from sequestration by such Act.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 315. (a)(1) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2004 if—

(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2) of this subsection); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 316. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3-171; D.C. Official Code, sec. 1-123).

SEC. 317. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 318. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114; D.C. Official Code, sec. 32-701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 319. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(1) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(2) the Council within 15 calendar days after receipt of the report submitted under paragraph (1) has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(c) No amount may be obligated or expended from the general fund or other funds of the Dis-

trict of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 320. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2004 an inventory, as of September 30, 2003, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 321. No officer or employee of the District of Columbia government (including any independent agency of the District of Columbia, but excluding the Office of the Chief Technology Officer, the Office of the Chief Financial Officer of the District of Columbia, and the Metropolitan Police Department) may enter into an agreement in excess of \$2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 322. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2004 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2-302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appro-

priations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 323. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 324. (a) None of the Federal funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 325. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 326. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 327. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 328. (a) If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) A payment described in this subsection is—

(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Court of the Superior

Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code; or

(3) a payment for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2003 and any subsequent fiscal year.

SEC. 329. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing the following issues—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 330. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.42), for all agencies of the District of Columbia government for fiscal year 2004 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 331. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93-030-(PA) and 93-031-(PA).

SEC. 332. None of the Federal funds made available in this Act may be transferred to any

department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 333. In addition to any other authority to pay claims and judgments, any department, agency, or instrumentality of the District government may pay the settlement or judgment of a claim or lawsuit in an amount less than \$10,000, in accordance with the Risk Management for Settlements and Judgments Amendment Act of 2000 (D.C. Law 13-172; D.C. Official Code, sec. 2-402).

SEC. 334. All funds from the Crime Victims Compensation Fund, established pursuant to section 16 of the Victims of Violent Crime Compensation Act of 1996 (D.C. Law 11-243; D.C. Official Code, sec. 4-514) ("Compensation Act"), that are designated for outreach activities pursuant to section 16(d)(2) of the Compensation Act shall be deposited in the Crime Victims Assistance Fund, established pursuant to section 16a of the Compensation Act, for the purpose of outreach activities, and shall remain available until expended.

SEC. 335. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts in cases charging Driving Under the Influence and Driving While Impaired. The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Control Act (D.C. Official Code, sec. 50-2201.05(b)(3)).

SEC. 336. From the local funds appropriated under this Act, any agency of the District government may transfer to the Office of Labor Relations and Collective Bargaining (OLRCB) such amounts as may be necessary to pay for representation by OLRCB in third-party cases, grievances, and dispute resolution, pursuant to an intra-District agreement with OLRCB. These amounts shall be available for use by OLRCB to reimburse the cost of providing the representation.

SEC. 337. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of \$4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 338. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia: Provided, That as part of the certification, the Chief Financial Officer of the District of Columbia require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification: Provided further, That the Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives on the certifi-

cation of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA: Provided further, That the Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 339. Chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new section:

"SEC. 16-316. APPOINTMENT AND COMPENSATION OF COUNSEL; GUARDIAN AD LITEM.

"(a) When a petition for adoption has been filed and there has been no termination or relinquishment of parental rights with respect to the proposed adoptee or consent to the proposed adoption by a parent or guardian whose consent is required under D.C. Code section 16-304, the Court may appoint an attorney to represent such parent or guardian in the adoption proceeding if the individual is financially unable to obtain adequate representation.

"(b) The Court may appoint a guardian ad litem who is an attorney to represent the child in an adoption proceeding. The guardian ad litem shall in general be charged with the representation of the child's best interest.

"(c) An attorney appointed pursuant to subsection (a) or (b) of this section shall be compensated in accordance with D.C. Code section 16-2326.01, except that compensation in the adoption case shall be subject to the limitation set forth in D.C. Code section 16-2326.01(b)(2)."

The table of sections for chapter 3 of title 16, District of Columbia Code, is amended by inserting at the end the following new item:

"Sec. 16-316. Appointment and compensation of counsel; guardian ad litem."

SEC. 340. (a) The amount appropriated by this Act as Other Type Funds may be increased no more than 25 percent to an account for unanticipated growth in revenue collections.

(b) CONDITIONS OF USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that anticipated revenue collections support an increase in Other Type authority in the amount request.

(2) NOTICE REQUIREMENT.—The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.

SEC. 341. (a) The amount appropriated by this Act may be increased by no more than \$15,000,000 from funds identified in the comprehensive annual financial report as the District's fund balance.

(b) CONDITIONS ON USE.—The District of Columbia may obligate or expend these amounts only in accordance with the following conditions:

(1) CERTIFICATION BY THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District of Columbia's long-term financial, fiscal, and economic vitality.

(2) PURPOSE.—The District of Columbia may only use these funds for the following expenditures:

- (A) Unanticipated one-time expenditures;
- (B) To address potential deficits;
- (C) Debt reduction;
- (D) Unanticipated program needs; or
- (E) To cover revenue shortfalls.

(3) LOCAL LAW.—The amounts shall be obligated or expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) RECEIVERSHIP.—The amounts may not be used to fund the agencies of the District of Columbia government under court-ordered receivership.

(5) NOTICE REQUIREMENT.—*The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate in writing 30 days in advance of any obligation or expenditure.*

(6) AVAILABILITY OF FUNDS.—*Funds made available pursuant to this section shall remain available until expended.*

This Act may be cited as the "District of Columbia Appropriations Act, 2004".

The Presiding Officer appointed Mr. DEWINE, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. STEVENS, Ms. LANDRIEU, Mr. DURBIN, and Mr. INOUE conferees on the part of the Senate.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

EXECUTIVE SESSION

NOMINATION OF MAJ. GEN. ROBERT T. CLARK TO BE LIEUTENANT GENERAL

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, pursuant to the order of November 14, I ask that the Senate now proceed to executive session to begin consideration of Executive Calendar No. 418, the nomination of Maj. Gen. Robert T. Clark to be Lieutenant General.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read the nomination of Maj. Gen. Robert T. Clark to be Lieutenant General.

Mr. WARNER. Mr. President, there are a number of Senators who desire to speak. I will just say a few words. To accommodate my distinguished colleague from Kentucky, who has been a valiant supporter of this nomination and very persistent over this long period of time, I will yield the floor. He then could be followed by the Senator from Massachusetts and then I would continue my remarks.

I wonder if I just might ask unanimous consent that the Senator from Virginia proceed for not to exceed 3 or 4 minutes, followed by the Senator from Kentucky for about 10 or 12 minutes, followed by the Senator from Massachusetts. How much time does my colleague desire?

Mr. KENNEDY. I think 40 minutes.

Mr. WARNER. Not to exceed a period of about 40 minutes for the Senator from Massachusetts.

Mr. KENNEDY. I think Senator DAYTON also had 15 minutes. I think there is a unanimous consent agreement for this; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I was not able to hear.

Mr. KENNEDY. I think there is a consent that has been agreed to whereby there are 2 hours equally divided, with 40 minutes for myself and 15 minutes for Senator DAYTON.

Mr. WARNER. The Senator is correct on that.

Mr. KENNEDY. I will not necessarily take all of that time.

Mr. WARNER. Mr. President, I thank my colleague.

Major General Clark is a highly qualified officer for promotion to the rank of lieutenant general. I have met with him several times. His proposed assignment by the Secretary of Defense is to be Commander of the Fifth U.S. Army.

He was first nominated for this position in the fall of 2002. He has appeared before the Senate Armed Services Committee in executive session on two separate occasions. On both occasions he conducted himself with deference and respect not only for the serious issues at hand but for all persons involved in this tragic sequence of facts which preceded his nomination.

He expressed great respect for the constitutionally-based advise and consent power and the responsibility of the Senate to look into this nomination with great thoroughness. Not surprisingly, General Clark has the full support of the Chief of Staff of the Army, General Schoomaker, and the civilian leadership of the Army for this promotion. Indeed, the Secretary of Defense personally, in a very respectful way, has talked to me about this nomination and his strong support for this nominee.

I will detail at length later on in the course of this debate the very thorough steps taken by the Senate Armed Services Committee. I commend my colleagues on the committee. There were unusual facts associated with this nomination involving tragic loss of life, a strong disciplinary action against those who brought about the direct harm to the victim who gave his life. In the course of that, I and other members of the committee took it upon ourselves to meet with the family members of the deceased victim in this particular case. I wish to commend them. They handled themselves in a manner of great distinction, given the depth of emotion on their part.

I also commend the former Vice Chief of the Army, General Keane. He took it upon himself time and time again, working with the distinguished Under Secretary of the Army, Les Brownlee, to repeatedly go back and reinvestigate certain aspects of this case, I hope to the satisfaction of all Members, certainly to this Senator and generally members of the committee.

Mr. President, I yield the floor to accommodate my colleague. I again thank him for his strong tenacity in supporting this nomination throughout.

Mr. BUNNING. Mr. President, I rise in strong support of MG Robert Clark to the rank of lieutenant general and

commander of the Fifth Army. I first met General Clark over 5 years ago when he was commander of the 101st Airborne Division at Fort Campbell, KY. Since that time, I have known General Clark to be an honest man and an excellent soldier. The military communities in Kentucky and Tennessee surrounding Fort Campbell admire General Clark very much. He is well respected throughout the Army, and we should be grateful that we have soldiers like General Clark serving and protecting our Nation.

GEN Jack Keane, who commanded General Clark at Fort Campbell, said this about him:

In my 37 years of service, I have never met an officer who is such a tower of character and integrity. His peers, subordinates, and superiors all respect and admire him for the truly special person that he is.

General Clark loves the Army and he loves his country. Some may even say that General Clark was born with the desire to serve his country in his blood. Both of his grandfathers served in both World War I and World War II. His father served for 31 years and fought in both World War II and the Korean conflict. His older brother served in Vietnam. One of his younger brothers is an Air Force colonel, and another brother is an Army lieutenant colonel on the front lines in Korea.

The Clark family has made many sacrifices so that future generations of Americans can live in peace. General Clark has given 33 years of his life in the armed service to this great Nation. He is a decorated soldier and has shed his own blood for our country. He led a platoon in Vietnam, commanded a brigade that was dropped deep into Iraq during Operation Desert Storm.

As commanding general of the 101st Screaming Eagles, he deployed himself, with his troops, all over the world, from Kuwait to El Salvador. Most recently, General Clark has been deputy commander of the Fifth Army and mobilized Guard and Reserves for homeland defense and Operation Iraqi Freedom. He has worn just about every hat the Army has to offer.

COL Mike Oates, who served under General Clark at Fort Campbell, said this about him:

He spoke straight to the soldiers. He looked them in the eye and he set high standards for wearing our equipment and how we behaved. Discipline is what keeps good units effective and reliable. He enforced discipline and set the example himself.

I could go on and on about General Clark's distinguished career. But I need to address the tragic incident that has held up his nomination, which occurred while General Clark was at Fort Campbell. A murder occurred at Fort Campbell on July 5, 1999. PVT Barry Winchell was killed in a tragic event that none of us should ever forget. Private Winchell was murdered by a fellow soldier, who is serving—and deservingly so—a life sentence for this horrendous crime.

I do not wish to address the details of this horrible murder, but I do wish to