

**H.R. 733, D.C. BUDGET AUTONOMY AND H.R.
1054, D.C. LEGISLATIVE AUTONOMY ACT**

HEARING

BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE,
POSTAL SERVICE, AND THE DISTRICT
OF COLUMBIA

OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

H.R. 733

TO AMEND THE DISTRICT OF COLUMBIA HOME RULE ACT TO ELIMINATE ALL FEDERALLY-IMPOSED MANDATES OVER THE LOCAL BUDGET PROCESS AND FINANCIAL MANAGEMENT OF THE DISTRICT OF COLUMBIA AND THE BORROWING OF MONEY BY THE DISTRICT OF COLUMBIA

AND ON

H.R. 1054

TO AMEND THE DISTRICT OF COLUMBIA HOME RULE ACT TO ELIMINATE CONGRESSIONAL REVIEW OF NEWLY-PASSED DISTRICT LAWS

JUNE 7, 2007

Serial No. 110-205

Printed for the use of the Committee on Oversight and Government Reform



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>
<http://www.house.gov/reform>

U.S. GOVERNMENT PRINTING OFFICE

55-750 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
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**H.R. 733, D.C. BUDGET AUTONOMY AND H.R.
1054, D.C. LEGISLATIVE AUTONOMY ACT**

THURSDAY, JUNE 7, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:14 p.m. in room 2247, Rayburn House Office Building, Hon. Danny K. Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis of Illinois, Norton, Marchant, McHugh, Jordan, and Davis of Virginia [ex officio].

Staff present: Howie Denis, senior professional staff member; Alex Cooper, professional staff member; Tania Shand, minority staff director; Caleb Gilchrist, minority professional staff member; Lori Hayman, minority counsel; and Cecelia Morton, minority clerk.

Mr. DAVIS OF ILLINOIS. The subcommittee will come to order.

I want to note that we have a new member of the subcommittee with us today, Representative Jim Jordan from Ohio. Mr. Jordan served for over a decade in the Ohio State Legislature before his election to Congress last fall. Mr. Jordan is not here at the moment, but I certainly want to welcome him to the subcommittee and look forward to working with him.

Welcome Ranking Member Marchant, members of the subcommittee, hearing witnesses, and all of those in attendance. We welcome you to the Federal Workforce, Postal Service, and the District of Columbia Subcommittee's legislative hearing on H.R. 733, the D.C. Budget Autonomy, and H.R. 1055, D.C. Legislative Autonomy Act.

Hearing no objection, the Chair, ranking member, and subcommittee members will each have 5 minutes to make opening statements, and all Members will have 3 days to submit statements for the record.

I will begin.

Good afternoon, ladies and gentlemen. I would like to welcome everyone to today's hearing.

The purpose of this hearing is to examine two bills in Delegate Eleanor Holmes Norton's Free and Equal D.C. Legislative Series. Ms. Norton introduced these proposals to eliminate anti-home-rule measures that deprive the District of Columbia of equal treatments and recognition as an independent, self-governing jurisdiction.

The legislative proposals we are considering today are H.R. 733, the District of Columbia Budget Autonomy Act of 2007, and H.R. 1054, the District of Columbia Legislative Autonomy Act. These bills will eliminate congressional review and approval of the District's operating and capital budget and review of newly passed District laws.

However, as part of her Free and Equal D.C. Legislative Series, Delegate Norton has introduced bills that would establish an Office of the District Attorney that would be headed by a District Attorney elected by the residents of D.C., to one that would permit statues honoring the residents of the District of Columbia in Statutory Hall.

It is unfortunate that such bills are necessary. While District residents pay Federal and local taxes and serve in the military, they have no voting representation in the U.S. Congress to represent their interests, and they do not have full autonomy over their budget and local laws.

All 572,000 District residents, including the two-thirds that are African American, are being disenfranchised because the District of Columbia is subject to the budgetary and legislative whims of Congress.

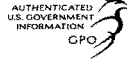
I support Delegate Norton's efforts to end the disenfranchisement of District residents and to provide the District with greater equality and flexibility over its budgetary and legislative affairs.

Again I want to thank you for coming to this hearing. I also want to note that very supportive and being a real part of this effort is Ranking Member Tom Davis of the full Committee on Oversight and Government Reform. Of course, he hails from the State of Virginia, which is a suburb of Washington, DC. [Laughter.]

Mr. DAVIS OF VIRGINIA. More like it is a suburb of Fairfax.

Mr. DAVIS OF ILLINOIS. All right. Either way we put it, we are delighted to have Ranking Member Tom Davis with us, and I would now yield to the ranking member of this subcommittee for an opening statement, and then we will hear from Delegate Norton and Ranking Member Tom Davis.

[The texts of H.R. 733 and H.R. 1054 follow:]



110TH CONGRESS
1ST SESSION

H. R. 733

To amend the District of Columbia Home Rule Act to eliminate all Federally-imposed mandates over the local budget process and financial management of the District of Columbia and the borrowing of money by the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2007

Ms. NORTON (for herself and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend the District of Columbia Home Rule Act to eliminate all Federally-imposed mandates over the local budget process and financial management of the District of Columbia and the borrowing of money by the District of Columbia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “District of Columbia
5 Budget Autonomy Act of 2007”.

1 **SEC. 2. TERMINATION OF FEDERAL MANDATES OVER**
2 **LOCAL BUDGET PROCESS AND FINANCIAL**
3 **MANAGEMENT OF DISTRICT OF COLUMBIA.**

4 (a) **TERMINATION OF MANDATES.**—

5 (1) **IN GENERAL.**—Part D of title IV of the
6 District of Columbia Home Rule Act (sec. 1–204.41
7 et seq., D.C. Official Code) is amended by adding at
8 the end the following new subpart:

9 “Subpart 3—Termination of Federal Mandates

10 “TERMINATION OF FEDERAL MANDATES

11 “SEC. 458. (a) **BUDGET AND FINANCIAL MANAGE-**
12 **MENT GOVERNED UNDER DISTRICT LAW.**—Effective with
13 respect to fiscal year 2008 and each succeeding fiscal year
14 which is not a control year—

15 “(1) the provisions of subpart 1 and subpart 2
16 shall not apply; and

17 “(2) the process by which the District of Co-
18 lumbia develops and enacts the budget for the Dis-
19 trict government for a fiscal year, and the activities
20 carried out with respect to the financial management
21 of the District government for a fiscal year, shall be
22 established under such laws as may be enacted by
23 the District.

24 “(b) **NO EFFECT ON EXISTING OBLIGATIONS.**—

25 Nothing in this section may be construed to relieve the
26 District of Columbia of any contractual or other financial

1 obligations incurred by the District under a budget en-
2 acted for a fiscal year prior to fiscal year 2008.”.

3 (2) CLERICAL AMENDMENT.—The table of con-
4 tents of such Act is amended by adding at the end
5 of the items relating to part D of title IV the fol-
6 lowing:

“Subpart 3—Termination of Federal Mandates

“Sec. 458. Termination of Federal mandates.”.

7 (b) ELIMINATION OF CONGRESSIONAL REVIEW PE-
8 RIOD FOR BUDGET ACTS.—Section 602(c) of such Act
9 (sec. 1–206.02(c), D.C. Official Code) is amended—

10 (1) in the second sentence of paragraph (1), by
11 striking “paragraph (2)” and inserting “paragraphs
12 (2) and (4)”; and

13 (2) by adding at the end the following new
14 paragraph:

15 “(4) In the case of any Act adopting the annual budg-
16 et for the District of Columbia government for fiscal year
17 2008 or any succeeding fiscal year which is not a control
18 year, such Act shall take effect upon the date prescribed
19 by such Act.”.

20 **SEC. 3. TERMINATION OF FEDERAL MANDATES OVER BOR-**
21 **ROWING OF MONEY.**

22 (a) TERMINATION OF MANDATES.—

23 (1) IN GENERAL.—Part E of title IV of the
24 District of Columbia Home Rule Act (sec. 1–204.61

1 et seq., D.C. Official Code) is amended by adding at
2 the end the following new subpart:

3 “Subpart 6—Termination of Federal Mandates

4 “TERMINATION OF FEDERAL MANDATES

5 “SEC. 490A. (a) BORROWING GOVERNED UNDER
6 DISTRICT LAW.—Except as provided in subsection (b), ef-
7 fective with respect to fiscal year 2008 and each suc-
8 ceeding fiscal year which is not a control year—

9 “(1) the provisions of subparts 1 through 5
10 shall not apply; and

11 “(2) the process and rules by which the District
12 of Columbia issues bonds or otherwise borrows
13 money shall be established under such laws as may
14 be enacted by the District.

15 “(b) EXCEPTION FOR CERTAIN PROVISIONS.—Sub-
16 section (a) does not apply with respect to the following
17 sections:

18 “(1) Section 482 (relating to the full faith and
19 credit of the District).

20 “(2) Section 484 (relating to the nonapplica-
21 bility of the full faith and credit of the United
22 States).

23 “(3) Section 485 (relating to the tax treatment
24 of bonds and notes).

1 “(4) Section 486 (relating to legal investment
2 in bonds and notes).

3 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion may be construed—

5 “(1) to relieve the District of Columbia of any
6 obligation incurred with respect to bonds or other
7 forms of borrowing issued prior to fiscal year 2008;
8 or

9 “(2) to waive the application to the District of
10 Columbia of any other Federal law governing the
11 borrowing of funds by States or units of local gov-
12 ernment, including the Internal Revenue Code of
13 1986.”.

14 (2) CLERICAL AMENDMENT.—The table of con-
15 tents of such Act is amended by adding at the end
16 of the items relating to part E of title IV the fol-
17 lowing:

 “Subpart 6—Termination of Federal Mandates

 “Sec. 490A. Termination of Federal mandates.”.

18 (b) REPEAL OF CAP ON AMOUNT OF DISTRICT BOR-
19 ROWING.—Section 603(b) of such Act (sec. 1–206.03(b),
20 D.C. Official Code) is amended by adding at the end the
21 following new paragraph:

22 “(4) Paragraphs (1) through (3) shall not apply with
23 respect to fiscal year 2008 or any succeeding fiscal year
24 which is not a control year.”.

1 **SEC. 4. OTHER CONFORMING AMENDMENTS RELATING TO**
2 **CHANGES IN FEDERAL ROLE IN BUDGET**
3 **PROCESS.**

4 (a) **FEDERAL AUTHORITY OVER BUDGET-MAKING**
5 **PROCESS.**—Section 603(a) of the District of Columbia
6 Home Rule Act (sec. 1–206.03, D.C. Official Code) is
7 amended by inserting before the period at the end the fol-
8 lowing: “for a fiscal year which is a control year”.

9 (b) **RESTRICTIONS APPLICABLE DURING CONTROL**
10 **YEARS.**—Section 603(d) of such Act (sec. 1–206.03(d),
11 D.C. Official Code) is amended to read as follows:

12 “(d) In the case of a fiscal year which is a control
13 year, the Council may not approve, and the Mayor may
14 not forward to the President, any budget which is not con-
15 sistent with the financial plan and budget established for
16 the fiscal year under subtitle A of title II of the District
17 of Columbia Financial Responsibility and Management
18 Assistance Act of 1995.”.

19 (e) **DEFINITION.**—Section 603(f) of such Act (sec. 1–
20 206.03(f), D.C. Official Code) is amended to read as fol-
21 lows:

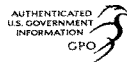
22 “(f) In this section, the term ‘control year’ has the
23 meaning given such term in section 305(4) of the District
24 of Columbia Financial Responsibility and Management
25 Assistance Act of 1995.”.

9

7

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to fiscal year 2008
3 and each succeeding fiscal year.

○



110TH CONGRESS
1ST SESSION

H. R. 1054

To amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2007

Ms. NORTON introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “District of Columbia Legislative Autonomy Act of 2007”.

6 (b) **REFERENCES IN ACT.**—Except as may otherwise
7 be provided, whenever in this Act an amendment is ex-
8 pressed in terms of an amendment to or repeal of a section
9 or other provision, the reference shall be considered to be

1 made to that section or other provision of the District of
2 Columbia Home Rule Act.

3 **SEC. 2. ELIMINATION OF CONGRESSIONAL REVIEW OF**
4 **NEWLY-PASSED DISTRICT LAWS.**

5 (a) IN GENERAL.—Section 602 (sec. 1–206.02, D.C.
6 Official Code) is amended by striking subsection (c).

7 (b) CONGRESSIONAL RESOLUTIONS OF DIS-
8 APPROVAL.—

9 (1) IN GENERAL.—The District of Columbia
10 Home Rule Act is amended by striking section 604
11 (sec. 1–206.04, D.C. Official Code).

12 (2) CLERICAL AMENDMENT.—The table of con-
13 tents is amended by striking the item relating to sec-
14 tion 604.

15 (3) EXERCISE OF RULEMAKING POWER.—This
16 subsection and the amendments made by this sub-
17 section are enacted by Congress—

18 (A) as an exercise of the rulemaking power
19 of the House of Representatives and the Sen-
20 ate, respectively, and as such they shall be con-
21 sidered as a part of the rules of each House, re-
22 spectively, or of that House to which they spe-
23 cifically apply, and such rules shall supersede
24 other rules only to the extent that they are in-
25 consistent therewith; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change such
3 rules (so far as relating to such House) at any
4 time, in the same manner, and to the same ex-
5 tent as in the case of any other rule of such
6 House.

7 (c) CONFORMING AMENDMENTS.—

8 (1) DISTRICT OF COLUMBIA HOME RULE ACT.—
9 (A) Section 303 (sec. 1-203.03, D.C. Official Code)
10 is amended—

11 (i) in subsection (a), by striking the second
12 sentence; and

13 (ii) by striking subsection (b) and redesignating
14 subsections (c) and (d) as subsections
15 (b) and (c).

16 (B) Section 404(e) (sec. 1-204.04(3), D.C. Of-
17 ficial Code) is amended by striking “subject to the
18 provisions of section 602(c)” each place it appears.

19 (C) Section 462 (sec. 1-204.62, D.C. Official
20 Code) is amended—

21 (i) in subsection (a), by striking “(a) The
22 Council” and inserting “The Council”; and

23 (ii) by striking subsections (b) and (c).

24 (D) Section 472(d) (sec. 1-204.72(d), D.C. Of-
25 ficial Code) is amended to read as follows:

1 “(d) PAYMENTS NOT SUBJECT TO APPROPRIA-
2 TION.—The fourth sentence of section 446 shall not apply
3 to any amount obligated or expended by the District for
4 the payment of the principal of, interest on, or redemption
5 premium for any revenue anticipation note issued under
6 subsection (a).”.

7 (E) Section 475(e) (sec. 1–204.75(e), D.C. Of-
8 ficial Code) is amended to read as follows:

9 “(e) PAYMENTS NOT SUBJECT TO APPROPRIA-
10 TION.—The fourth sentence of section 446 shall not apply
11 to any amount obligated or expended by the District for
12 the payment of the principal of, interest on, or redemption
13 premium for any revenue anticipation note issued under
14 this section.”.

15 (2) OTHER LAWS.—(A) Section 2(b)(1) of
16 Amendment No. 1 (relating to initiative and ref-
17 erendum) to title IV (the District Charter) (sec. 1–
18 204.102(b)(1), D.C. Official Code) is amended by
19 striking “the appropriate custodian” and all that fol-
20 lows through “portion of such act to”.

21 (B) Section 5 of Amendment No. 1 (relating to
22 initiative and referendum) to title IV (the District
23 Charter) (sec. 1–204.105, D.C. Official Code) is
24 amended by striking “, and such act” and all that
25 follows and inserting a period.

1 (C) Section 16 of the District of Columbia Elec-
2 tion Code of 1955 (sec. 1-1001.16, D.C. Official
3 Code)—

4 (i) in subsection (j)(2)—

5 (I) by striking “sections 404 and
6 602(c)” and inserting “section 404”, and

7 (II) by striking the second sentence;
8 and

9 (ii) in subsection (m)—

10 (I) in the first sentence, by striking
11 “the appropriate custodian” and all that
12 follows through “parts of such act to”,

13 (II) by striking “is held. If, however,
14 after” and inserting “is held unless,
15 under”, and

16 (III) by striking “section, the act
17 which” and all that follows and inserting
18 “section.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The amendments made by this Act shall apply with
21 respect to each act of the District of Columbia—

22 (1) passed by the Council of the District of Co-
23 lumbia and signed by the Mayor of the District of
24 Columbia;

1 (2) vetoed by the Mayor and repassed by the
2 Council;

3 (3) passed by the Council and allowed to be-
4 come effective by the Mayor without the Mayor's sig-
5 nature; or

6 (4) in the case of initiated acts and acts subject
7 to referendum, ratified by a majority of the reg-
8 istered qualified electors voting on the initiative or
9 referendum,

10 on or after October 1, 2007.

○

Mr. MARCHANT. Thank you, Mr. Chairman.

I would ask permission to put my remarks into the record and welcome all of you today. I am sure this will be a very interesting hearing. I am very interested in Ms. Norton's proposal. I will leave the rest of my time for the witnesses and Mr. Davis.

Mr. DAVIS OF ILLINOIS. Well, thank you very much, Mr. Marchant.

We will now proceed to Delegate Eleanor Holmes Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Chairman, I particularly want to thank you for this hearing, Mr. Chairman. In the 17 years that I have been in Congress, there has never been a hearing on budget or legislative autonomy, although next to voting rights I can think of no matters that would be of greater importance to the District.

I want to thank the ranking member for co-sponsoring the Budget Autonomy Act, the more important of these two acts, although both are of immense importance to the city.

Mr. Chairman, if you were to ask somebody how you define self-government, I think they would begin by saying that the very definition of self-government is the ability to enact your own laws and your own budget. If you do not have that, you do not have self-government.

The District of Columbia Council and Mayor do not enact the budget and laws of the District of Columbia. Enactment is a word that is technically possible to be used and, in fact, the way the Congress uses it, only after Congress either reviews or passes legislation for the District of Columbia. That is as bad as it gets, Mr. Chairman, when you consider that all 50 States of the Union and all of their local jurisdictions and all four of the territories have complete and total legislative and budget autonomy. In our country, only the District of Columbia is treated as a colony that must bring its budget, raised totally from taxpayers here, to be enacted before it can be spent.

I appreciate that you have begun the process of moving us to full membership in the Body known as the United States of America.

I want to say that thanks are due, as well, to the Senate, because, even when I was in the minority, the Senate did enact a modified budget autonomy bill where our budget would have had to come here but stay so few days that, in effect, it was budget autonomy. Tom and I worked together on that matter, and we could not get it through the House.

Today we seek full budget autonomy. Thirty-three years late, but we seek it this year.

Senator Thomas Eagleton included in the original Home Rule Act full budget autonomy for the District of Columbia, but, again, we are dealing with the bad House, the House of Representatives, and we were not able to get that through the House. We have the bifurcated process we have today.

That means that this city brings more than \$5 billion in taxpayer-raised funds to this Body, which contains some States that do not raise that much money, and asks those States to vote on that budget and on those laws, when the Member from this city has no vote on that money or on those laws.

You have alluded to the Free and Equal D.C. Series and a couple of the bills in there. Essentially, what the series does is to give the city control over its core functions—its budget, its legislation, its criminal justice—and it transfers to the District of Columbia those Home Rule Act Provisions that prescribe the city's structure, and others that make it necessary to come to Congress, as well as many others that have just been dumped into the charter provision.

Let me give you two recent examples so you can understand why we are here today. It is more than about structure and broad principles.

Here are two examples:

The Mayor just did a school restructure bill. It was delayed, even though school opens in September, while it went to the House. I so appreciate, Mr. Chairman, how quickly you passed that bill through subcommittee and committee and how quickly our leadership got here. Then it had to go to the Senate, and there was some shenanigans there. But the fact that it had to go to two houses after the Council had 70 hearings is a case study in stupidity and redundancy in government.

We have another matter. The CFO has not had a raise since he has been CFO, but the minority was able to stop a raise here because they deemed it too much. First of all, CFO shouldn't be in the charter. He is a D.C. official. He is no more than the Mayor and the City Council, and he should be right there with other officials. But because we dumped him in the charter, we are still waiting to get his raise.

I appreciate how the authorizers are working with me to see what we can do. I can tell you this much: somebody suggested it go in our budget. It is not going there, because if they held it up, if they used it to hold up the bill, all it would do is to hold up our budget. So we have to be very creative, and instead of Eleanor working on the next thing we do on the Iraq war, on the hunger, on the bill we had a press conference on to raise Federal hunger allotments for poor people, I have to try to strategize how to get out a raise for a D.C. official that most Members of Congress—and I think even most D.C. residents—don't know a lot about and certainly don't care much about up here.

This bill recognizes that until we get statehood—and that is not in the cards any time soon—under Article 1, Section 8 of the Constitution, Congress can step in at any point. So this is redundancy at large. Instead of holding things, the Congress can step in and grab things at will.

In 2006, however, first I want to give Congress some credit. Congress has seen, because we have kept at them, what they are doing to the city government that they want to see become more efficient. This happened. Two important changes happened while I was in the minority, and I want to give the minority credit for working with me to effect these changes.

One is mid-year budget autonomy. If you think it is demeaning to have to bring your budget here, consider, Mr. Chairman, what it means to raise taxpayer funds between September 30th and let us say the next 6 months and not be able to spend that money until we pass the supplemental, the supplemental like the Iraq supplemental. Well, the minority did grant us mid-year budget au-

tonomy, and so we do not have to come every twice a year; we now only have to come once a year. That was the most important structural change since the Home Rule Act was passed 33 years ago.

I want to give the minority credit for another important change. Our budget has sometimes been held up here 3, 4, and 5 months because of the way people go at attachments or because we were included in an omnibus bill. The minority I give credit for working with me so that our budget always gets out on time on September 30th, and instead of getting out the way it did before so you spend last year's funds, it gets out so you can spend your own money at the next fiscal year's funds.

So that mid-year budget autonomy and on-time passage of the budget is something we got when I was in the minority, and I want to give credit to the minority for working with me to do that.

I want to say, Mr. Chairman, that budget autonomy and legislative autonomy both affect the bond rating of the District of Columbia, because Wall Street looks at finality, the shadow of the Congress and might do something that no one can anticipate hanging over our budget affects our bond rating. Until Congress has gone through that process, we will not have the bond rating that the city deserves and has earned by the way in which it has managed money.

It can't do accurate revenue forecasts. Once our budget was held up—and I want to put this in the record so it is clear why this is necessary. When your budget is held up, this is what it does to your D.C. public schools. One year it was held up and, as a result of not having the budget out, all the contracts you made are either null and void or you can't proceed on them. Textbooks had to be returned to publishers under contract provisions written into those contracts. School supplies were returned. School buses under bus lease contract were reduced, creating longer rides for disabled children, and tuition payments for special education students went unpaid. That is so unnecessary that one has to ask why it has lasted this long.

Mr. Chairman, I will say a word about legislative autonomy, not because it is not important, but because it is even more ridiculous. The 30 days and 60 days for criminal matters, 30 days in civil matters is not only obsolete and demeaning and cumbersome; Congress no longer uses it.

So the whole purpose was to see if there was something that really shouldn't be enacted, and if you, in fact, enact a law that affects the Federal presence or the Federal Government then you ought to be overturned. If you were from Chicago or New York, you would be overturned then, too.

Again, remember, we can get in to the District under Article 1, Section 8, and change anything we want to. This process of review isn't used any more, because when Congress wants to overturn something it simply does it through the appropriation process. What does the District have to do? Meanwhile, the District has to act as if we still use the layover process, and so it still hasn't passed these crazy things, the temporary, it calls them various things—emergency, temporary, permanent.

Some laws go out of existence because it is 30 legislative days, 60 legislative days, and we are not here straight for legislative days that way.

Particularly because it isn't used, particularly because it is tortuous and byzantine to put anybody through that process, especially a city that raises its own funds, it is time to just throw legislative autonomy out of the window.

All of these may have made some sense 33 years ago when people didn't have any experience. The experience has long indicated that this stranglehold on District legislation, this idiotic way of dealing with our budget demeans not only us, it demeans the Congress.

It is so important, what you are doing here, Mr. Chairman, that, like the Voting Rights Act of 2007, if we pass the Legislative Autonomy Act of 2007 and the Budget Autonomy Act of 2007, they will rank the 110th Congress as doing yet another historic measure.

Thank you very much.

Mr. DAVIS OF ILLINOIS. Thank you very much, Ms. Norton. Of course, nobody represents their areas with more passion than Ms. Norton.

We will now proceed to the ranking member of the full Committee on Oversight and Government Reform, Representative Davis.

Mr. DAVIS OF VIRGINIA. Thank you very much, Chairman Davis.

Back in 1995, when I became chairman of the D.C. Subcommittee, the Nation's capital faced a spending and financial crisis of epic proportions. Congress, in passing our Control Board legislation that I sponsored with Delegate Norton, embarked on a critically important journey to address this crisis. With patience and perseverance, the Control Board Congress created had its intended effect and eventually worked itself out of a job. Much needed fiscal discipline was instilled in the city's budget process. The District's return to the private financial markets helped to produce more credible numbers and better performance.

We then moved to the next level in 1997, with passage of the National Capital Revitalization and Self-Government Improvement Act. The economic recovery of the Nation's capital, which has continued to pace ever since, has benefited the entire Washington region.

There is no doubt in my mind that we are now ready to continue our progress by enacting H.R. 733, the D.C. Budget Autonomy Act, which we enable the city to implement its own local budget based on its locally generated funds. It in no way changes nor could it change the District Clause of the Constitution, which establishes and maintains congressional legislative authority, but it does address the unfair delays in service delivery caused by the present congressional appropriations system. The city has too often been held hostage to totally unrelated disputes. Meanwhile, D.C.'s schools, public safety, and the entire range of city services have often hung suspended as Congress dawdled and delayed.

As the old saying goes, when elephants fight the grass suffers. A lot of District grass suffers as a result of the archaic budgetary process now required.

The city has sometimes had to be part of a continuing resolution and was subject to unrelated Presidential vetoes of omnibus or mini-bus appropriations bills. Then there was the Government shutdown and others that were threatened. I remember getting calls over the years about whether or not local police, teachers, and sanitation workers could report to duty, and, if they did, whether or not they would be paid.

It is really quite simple: The District should not be held hostage by needless delays in the congressional budget process that cost the city money. This bill will remove the uncertainty that has plagued the past D.C. budgets and give the city greater control over its own funds. Remember, we are only talking about the District of Columbia's own money here.

It is time to make sure the District can begin utilizing the next fiscal year's funds when the fiscal year begins. Short of voting rights, budget autonomy is the most important change Congress could make for the District.

I have some reservations about the other bill before the subcommittee, H.R. 1054. This bill, dubbed legislative autonomy, would eliminate the congressional review period. I don't find the present system to be unnecessarily burdensome for either the District or Congress. While I am well aware of the work required to keep track of the layover provisions in the Home Rule Act, I think it is a useful mechanism that exercises for the Washington region and the Federal Government, especially given the many instances of beneficial local interaction and the collegial way the provision has been administered over the years.

Unlike the local budget, affirmative congressional approval of local legislation isn't required in the form of an act of Congress. To the contrary, it would take literally an act of Congress, known as a resolution of disapproval, to prevent local enactments from going forward, and there is a very short timeframe for such an action, and Congress has historically exercised appropriate standards.

Since the Home Rule Act was enacted in 1973, only three enactments have been adversely affected by Congress out of around 4,000 submitted, so the Federal interest in the Nation's capital has been exercised in a non-obtrusive and effective way.

Still, keeping an open mind, I look forward to the hearing today, hearing more about why the present system should not simply proceed as it is.

Thank you very much.

Mr. DAVIS OF ILLINOIS. Thank you very much, Representative Davis.

Of course, again, we welcome Mr. Jordan. Thank you very much for joining this committee, as a matter of fact. If you have any opening comments at the moment, we would be delighted to entertain them.

Mr. JORDAN. Thank you very much, Mr. Chairman. I look forward to working with you on this committee.

Mr. DAVIS OF ILLINOIS. Thank you very much.

If we would then ask our first panel of witnesses if they would come. You might just remain standing for the moment. Of course, it is committee policy that all witnesses are sworn in.

[Witnesses sworn.]

Mr. DAVIS OF ILLINOIS. The record will show that each witness answered in the affirmative.

Gentlemen, you may be seated.

Let me just briefly introduce our distinguished panel of witnesses.

We have the Honorable Adrian M. Fenty. Before becoming Mayor of the District of Columbia, Mayor Fenty waged a vigorous campaign in which he emphasized the need for government to serve the priorities of its people. In keeping with his mission, Mayor Fenty has successfully received congressional approval to provide the city's children with hope and opportunity through an education reform initiative that places the responsibility for managing D.C. public schools under the auspices of the Mayor.

We also have the Honorable Vincent C. Gray, who is a native of Washington, DC, and a proud product of the District of Columbia public school system. With a longstanding commitment to children, he has a solid reputation as a champion for young people and their families. His career in social services spans over 30 years, beginning with his service as executive director of the D.C. Association for Retarded Citizens, where he successfully advocated public policy initiatives on behalf of persons living with mental retardation in the Washington metropolitan area.

Gentlemen, we thank you both for coming. Of course, the green light indicates that you have 5 minutes in which to summarize your statement. The yellow light means your time is running down and you have 1 minute remaining to complete your statement. And the red light means that your time has expired.

We will first go to Mayor Fenty.

Mr. Mayor.

STATEMENTS OF ADRIAN M. FENTY, MAYOR OF WASHINGTON, DC; AND VINCENT GRAY, CHAIRMAN OF DISTRICT OF COLUMBIA'S CITY COUNCIL, ACCOMPANIED BY ERIC GOULET, BUDGET DIRECTOR, DISTRICT OF COLUMBIA CITY COUNCIL

STATEMENT OF ADRIAN M. FENTY

Mayor FENTY. Thank you very much, Mr. Chairman and Ranking Member Marchant, Congresswoman Norton, Congressman Davis, Congressman Jordan. It is my pleasure to be here today to speak to you about H.R. 733, the District of Columbia Budget Autonomy Act, and H.R. 1054, the District of Columbia Legislative Autonomy Act.

For the record, my name is Adrian Fenty and I took office this past January as the fifth elected Mayor of the District of Columbia.

I plan to say a few words about why budget and legislative autonomy are crucial to the future of the government I lead, but first, Mr. Chairman, I would like to thank you for your partnership and the work that you and the other members of this committee have done on the District's behalf.

I should also acknowledge the role of the U.S. Constitution in framing the relationship between the District and Congress.

Everyone in this room is well aware that, under the District Clause, Congress reserves exclusive legislative authority in all cases whatsoever. Congresswoman Norton's proposals for budg-

etary and legislative autonomy do nothing to diminish this Constitutional authority. They simply re-interpret this authority to give the District's duly elected government more autonomy in managing its own affairs so that Members of Congress may remain focused on issues of national importance.

In the 34 years since the District of Columbia has had a locally elected government, that government has evolved and grown. First as chief financial officer and then in 8 years as Mayor, my predecessor, Anthony Williams, put the District's fiscal house in order. His successor, CFO Natwar Gandhi, has continued this work. You will hear from Dr. Gandhi shortly.

We have come a long way since the congressionally mandated Control Board in the 1990's, a long way since the District government couldn't pay its bills or pick up its garbage. Indeed, we are at this very moment prepared to send to the President our 12th consecutive balanced budget. Our bonds are A+ and A-1 at all three rating agencies for the first time in the history of the District of Columbia, to the envy of most other major cities. And even though the Control Board era is over, many of its controls are permanently enshrined in our laws.

In short, we are running a tight ship. If Congress had in the past intervened to restrict the powers of the locally elected government in times of financial distress, we think then that Congress should support our present-day tradition of fiscal discipline by granting the enhanced budget autonomy we have earned.

At the same time, we remain unique among cities and States in this country in having our local property sales and income taxes subject to the Federal appropriations process. This means our agencies must plan their budgets almost a year in advance. It means we must rely on continuing resolutions to fund our operations as we wait an average of 2½ extra months for Congress to approve our budget. And it means we need acts of Congress to re-allocate funds mid-year to meet the changing needs of our residents.

At the same time, neither Congress nor the White House typically makes any change to the local funds expenditures in our budget. For all these reasons, we are simply asking for the ability to spend locally collected dollars without congressional approval. This will mean better and more efficient government for my constituents and less work for the Federal staff who must review our budgets every year.

The Constitution declares Congress to be the supreme legislative authority for the District of Columbia. Depending on the nature of the bill in question, we must wait 30 to 60 legislative days for passive congressional approval before our legislation becomes law. This makes me the only chief executive of a city or a State in this country for whom the act of signing legislation does not make the legislation final. It also means the Council of the District of Columbia passes and I sign hundreds of bills every year that must await congressional approval. The vast and overwhelming majority of these bills are of no interest to Congress whatsoever.

And, as I mentioned in my discussion of our budget, it is extremely rare that Congress intervenes. To properly acknowledge that reality would be to put the District government in the driver's

seat and hand us the keys, while keeping your Constitutional mandate to watch how well we are driving.

I urge you to take action on these two pieces of important legislation as soon as possible.

Thank you again for the opportunity to testify. I am happy to answer any questions.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Mayor.

Let me just indicate that the gentleman to the left of Mr. Gray is Mr. Goulet, who is the D.C. Council's budget director. We welcome you also, sir.

Mr. GOULET. Thank you.

Mr. DAVIS OF ILLINOIS. We will now proceed to Mr. Gray.

STATEMENT OF VINCENT GRAY

Mr. GRAY. Thank you, Chairman Davis. I am delighted to be here, Ranking Member Marchant; our Congresswoman who represents so ably the District of Columbia, Congresswoman Norton; Congressman Tom Davis; and Congressman Jordan. Thank you very much for having me here today to speak on these two important pieces of legislation.

The District must develop its budget in a timeframe that complies with the complicated and lengthy Federal appropriations process. The congressional appropriations schedule prevents the District from using more current revenue estimates and expenditure needs that would lead to a budget based on better and more complete data. Because an affirmative congressional approval is required, the District's appropriation is often caught in national policy disputes that typically delay our local budget enactment and that do not have anything to do with the District of Columbia.

Complying with the Federal appropriations process disrupts service delivery in several troublesome ways. It lengthens the time period between identifying a service need and implementing a solution, service improvements are further hindered by Federal delays in the budget approval process, and program managers must use or lose funding at the end of each fiscal year.

In the 30 years since the enactment of Home Rule, the District has made many changes and many reforms and improved its financial operations, which you have already heard substantially about today. The city has even overcome its financial difficulties of the late 1990's and removed the Financial Control Board. Moreover, we are very proud at this stage that our bond rating with Moody's is an A-1, A+ with Standard and Poors, and A+ with Fitch, thus indicating our strong financial position.

Over the past several years, Congress has not changed the District's allocation of local funds in its budget. The approval of H.R. 733 would, however, provide the guarantee by removing the approval of the District's local budget by the Congress. Under the proposed legislation, Congress would still maintain its oversight authority as provided for in the Constitution.

One example of how the District suffered from the delays in the appropriation process occurred in fiscal year 2007. The District enacted the Community Access to Health Care Omnibus Amendment Act of 2007, which would fund both operating and capital expenditures to improve health care in the District. The District had to

wait for congressional action to an amendment to the continuing resolution in order to be able to move forward.

Granting the District budget autonomy would provide the following benefits: Allow for better budgeting by not having to start the process 4 months earlier than would be required if the District managed its own budget; provide increased financial flexibility that would allow the city to react quickly to changes in program and financial conditions; and, remove the uncertainties of the current budget process that the bond rating agencies take into account when assessing the District's finances.

No local government can operate effectively without the ability to respond quickly to changing public needs. The local government entity can better assess the needs of its jurisdiction and how to allocate the cost of programs and services provided by the city than anyone else.

It is a fact that the majority of our total budget is funded by local dollars. For fiscal year 2008, the total budget is \$9.8 billion, of which \$6 billion is the local budget. The local budget is funded by locally earned revenue, not by Federal dollars.

I believe the District has clearly demonstrated that we have earned the right to budget autonomy. We have come from under the authority of the Financial Control Board. We have maintained a strong financial position with substantial cash reserves. We have received clean audits for the last 10 years. The bond agencies have continually increased our ratings. And we have established internal financial controls that maintain balanced budgets.

Legislative autonomy is another concept whose time has come. The District of Columbia has operated under the current legislative process since the implementation of Home Rule in 1974. Most things in life should periodically be reviewed and updated. After 33 years, the process for enacting laws in the District needs to be revised. The current process involves a review period of 30 legislative days for civil laws and 60 legislative days for criminal laws.

In order to address the needs of government under the current approach, the Council must use a Byzantine process of passing laws on an emergency, temporary, and permanent basis. A bill passed on an emergency basis is enacted for only 90 calendar days. Because many pieces of legislation passed by the Council do not complete their congressional review during the emergency enactment period, the Council then must pass temporary laws in effect for 225 days. So, in effect, the Council is passing three pieces of legislation on one issue.

The inability to implement laws at the time of passage by the Council may increase implementation costs, as well. The role of the Council is to identify and address the needs of the city that require legislative action. Once the necessary research and evaluation of legislation is complete, the Council votes to approve the law. As has been indicated already, in the years since the enactment of the Home Rule Act, there have been only three resolutions of disapproval by the Congress. Congresswoman Norton's legislative autonomy bill would eliminate a formal review system. Obviously, Congress would still have the right, per its Constitutional authority, to enact laws that impact the District.

In conclusion, Mr. Chairman, the fundamental right of a representative democracy is self-determination. Indeed, to be governed by the consent of the governed is the founding principle of the United States. Now is the time to grant the District its right to self-determination, budget autonomy, legislative autonomy, and the supreme right of voting representation.

I thank you for your support, Chairman Davis, and we look forward to working with you to enact these pieces of legislation.

I would be happy to answer any questions that you or the other Members may have.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Gray.

I think I will go to you, Mr. Marchant, first, and ask if you have questions of this panel.

Mr. MARCHANT. Thank you. Thank you, Mr. Chairman.

I think my major questions at this time will be, Mayor, do you feel like these restrictions prohibit you from running the city day by day and doing a long-term play, or are these restrictions that are placed on you by law, are they manageable insofar as planning ahead for the various triggers that take place? Or do you think it is just something that is just untenable now?

Mayor FENTY. Well, I would never make any excuses for why we can't manage the government, but, as we tried to point out in testimony, the biggest problem I think would come in making sure that the budget is passed in a timely fashion. I think it is difficult to run a budget on last year's numbers, and that is what happens every year in the District of Columbia, and so I would submit that as a very real and perhaps the most significant impediment toward trying to make sure that we serve the citizens of the District of Columbia.

There are legislative issues that come up, as well, as the Congresswoman noted, with our own school reform legislation, but I would put the budget at the top of that list.

Mr. MARCHANT. Thinking about it from more of a long-term perspective, would you acknowledge that this Congress could remove these impediments, this Congress could pass the law, but a subsequent Congress could come back and put them back in? And would there be any interest in—and I would address this also to the author—in putting some triggers into the legislation that said, based on this past performance, those restrictions are lifted in the event that there is any kind of a crisis or any kind of an event that would re-trigger the necessity to come back and visit some of this stuff?

That way you would have the freedom to operate that you are looking for, yet you would not always and the city would not always have this future political partisan problem that might revisit every time Congress changes hands one way or the other. You might have the law put back in and taken out and put back in. That seems to be more than the concern about how well the city is doing, how well it is managed. It seems to me that by leaving it there and having Congress rarely exercise it, I understand makes it difficult.

What I would be looking for would be something that would allow you to function like a normal city unless a crisis arose, and then Congress would re-enter with the same powers it had, but

only because some threshold had been reached or some crisis had arisen.

Mayor FENTY. Let me just say first of all I think the current leadership of the city, including the Chair of the Council and the CFO, do understand that the District of Columbia can never revert back to how the city was managed some 10 to 15 years ago. It is an embarrassment to the citizens and really to the country. So our commitment to make sure that never happens is as strong as possible.

I do, of course, note for the record that the legislation that established the Financial Control Board does actually state that if the city would ever go back into the red, that the Control Board would return. So in some way what you just referenced related to budget and legislative autonomy does exist, and the leadership of the city is well aware of it.

Just looking forward, if you look at the past 35 years I think there is a consistent trend toward more autonomy for the city, so, although Congress does have exclusive jurisdiction, it does look like both sides of the aisle are comfortable moving in that direction, as long as they have the assurances from the city that we will continue to manage the city properly. You have those assurances.

Mr. MARCHANT. In your visiting with the rating agencies, as you do every year, have the rating agencies indicated a concern about the process you have to go through? And have they indicated one way or the other whether the rating could be upgraded if this process didn't have to take place? Or has it become an impediment to your bond rating?

Mayor FENTY. Yes. I think the biggest hardship on the city, when it comes to bond rating agencies, is our responsibility for borrowing to pay for what are essentially State-level costs in other places. We have the same functions as a normal city, but then we have to absorb all kind of debt to pay for other costs. That is the difference in our borrowing ratio and a place like Chicago or Boston.

I think, to the extent we can resolve that issue—much of it may be the subject of another hearing—I think we can actually continue to increase our bond rating.

That being said, I think the reason for the most recent two upgrades that happened within the past month were actually just based on our commitment that if anything does take a down-turn, we are going to make the tough decisions to keep the budget balanced.

Mr. MARCHANT. Well, I would like to say for the record that I congratulate you and the city in the incredible job that you are doing. My comments are not against the city in any way. My comments are about the potential of this law being changed back and forth—

Mayor FENTY. Yes.

Mr. MARCHANT [continuing]. Not next year or the next year, but over a decadal period of time, and disrupting again, being very disruptive in the future, even though this solution is being sought.

Mayor FENTY. Thank you, Mr. Ranking Member.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Marchant.

If I could, Mr. Mayor, let's revisit a little bit more. I think those of us who pay attention to things and remember the budget crisis

during the 1990's and institution of, I guess, safeguards that Congress felt that it was enacting, what is so different today about the Washington, DC, government as opposed to what it was then?

Mayor FENTY. Well, beyond, I think, a real philosophical change in the leadership, which can't be discounted, by the way, a feeling that, no matter what, the last thing that will ever happen is that the budget will be unbalanced, there are some safeguards that I think both the Council and Mayor really do respect and appreciate.

One is the independent CFO. We have a CFO that has to sign off on our budget being balanced, and we have to balance our budget in 5-year increments. We have a 5-year balanced budget plan, so, as we sit here today, we have not only had 11 straight balanced budgets, but the way we have projected spending going forth for 5 more budget years is balanced.

Then there are significant legislative reserves, and Congress has legislated those. Above those, we have reserves that the Council and Mayor have protected to the point that our reserves have grown to about \$1.4 billion, as you can see from Dr. Gandhi's chart there.

And then, last, each and every piece of legislation that passes the Council of the District of Columbia is signed by me, has to have a fiscal impact statement that the chief financial officer and the budget director of the Council sign.

So these are all institutionalized financial safeguards to go along with, I think, a much better appreciation for running the city in a financially responsibility way.

Mr. DAVIS OF ILLINOIS. Mr. Gray, how would you characterize the differences in the role that the Council plays today versus the role that the Council may have been playing during the 1990's?

Mr. GRAY. Well, I think that the Council has certainly increased its recognition of the importance of the fiscal integrity of the city and fiscal responsibility. The fiscal impact statement, for example, that the Mayor mentioned in his comments, is an important, inherent part of any enactment of any legislation.

Before any legislation is enacted by the Council, we are required and we do look quite diligently at what the fiscal impact is of any bill that we may pass, and not only for the year that ensues immediately thereafter, but for the 4-years thereafter. So there is no action that the Council would take, first of all, without knowing that it fits within the fiscal plan for the city.

I think also the Council, this city has certainly been one that has paid very sensitive attention to the social needs in the city. Over the last 8 to 10 years, we have worked with the Congress, in particular, to look at how we meet some of those needs. One of the most important examples is the Medicaid program.

In the Revitalization Act of 1997, the District's Federal reimbursement rate was changed from 50 percent to 70 percent, which recognized the demographics of the District of Columbia and provided the city with what at the time was an additional \$120 to \$120 million in resources, which really has helped us move rapidly toward the kind of fiscal solvency that we have today.

So I think you have a very responsible Council at this stage. You have people there who came through this period and you have people who have been in the city for, in many instances, their lifetime,

and recognize this awful period that the Council experienced, and they are not prepared to go back there again.

Mr. DAVIS OF ILLINOIS. Thank you.

Mr. Mayor, you indicated in your testimony that passage of this legislation would make the process more efficient and effective, both from a budgetary as well as from a legislative vantage point. What would be the difference, say, in doing next year's budget as opposed to doing this year's budget if the new authority is provided at that time?

Mayor FENTY. Well, one example is in the police officers. We have in the current fiscal year appropriated enough dollars to hire 300 new officers for the District of Columbia. That will become effective as soon as the budget is passed. In prior years, that has been sometimes into the next calendar year, and that means that our chief of police cannot begin the hiring of those new officers for maybe up to 3 months after the beginning of the fiscal year.

I think that is significant in a city where we put the money aside, where there are great public safety needs. I think that is one real example of the inability to implement a stated priority and a past priority of the Council and the Mayor in a timely fashion.

There are numerous examples, from building recreation centers and schools in a timely fashion, to making sure that you pay people at the current rates that they should be getting as employees of the government.

Mr. DAVIS OF ILLINOIS. Finally, let me ask, the city operates on an October-September fiscal year, while the School Board has a June-July fiscal year. Do you anticipate any problem or difficulty as a result of those different fiscal year operations?

Mayor FENTY. Well, in the past there have been discussions about changing that. As we go forward in preparation to have the school system report to my administration next week—and thank you all for your support on that—I think that is something that immediately needs to be looked at.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Delegate Norton.

Ms. NORTON. Mayor Fenty, you say in your testimony on page 2, you indicate that our bond rating is now A+ and A-1 at all three rating agencies. Could you or Mr. Gray spell out what that means in dollars? When people hear bond rating, I don't think they understand that is not just saying hey, you are good guys. Its importance is in millions of dollars. Do you have any idea what?

Mayor FENTY. If my recollection serves me right, I believe there was about \$10 million for each additional upgrade in savings for the District of Columbia.

Ms. NORTON. About \$10 million an upgrade?

Mayor FENTY. That is my understanding.

Ms. NORTON. And neither of you were on the Council at our low point. Perhaps I will ask this question of the CFO, but I know that we have gone from B or something of that kind, where in essence what this means, of course, is that taxpayers pay more for everything, because they have to pay more to borrow money.

I am not sure what the highest rating a city can attain is.

Mayor FENTY. I believe it is in the AAA category, yes AAA category.

Ms. NORTON. It is getting there.

Mayor FENTY. I think what is significant for this city is this is the highest that it has ever been in the District of Columbia, and I think—

Ms. NORTON. I wouldn't say that. I am sure it has been pretty high before. I mean, the District of Columbia has been here a long time. It once had 800,000 people. I think it probably has had pretty good bond ratings when it had a lot of population. What has hurt us is we lost population, and then you all had to struggle with bond ratings because you didn't have the tax base. I am not sure.

We have to watch out. There was a District of Columbia of here before me. I was just to honor Walter Fauntroy. The District of Columbia, in the early days of Home Rule, did pretty darned well. It inherited a terrible budget mess, and the first Mayor and second Mayor straightened it out. But there is no question that over the last 10 years you have seen this huge escalation—

Mayor FENTY. That is right.

Ms. NORTON [continuing]. For which all of the city deserves credit.

While the ranking member is here, who got assurance from the Mayor about whether or not there would be the need to reach in, just let me say, Mr. Marchant, he gave you the assurance, but you have the power.

The point is that at any point that the District slipped back in some way, or maybe it didn't slip back, maybe it was just the whim of a Member, that Member can come forward, put a bill in, and/or attach something to our appropriation, which is how it has been done, and there goes something the District wants to do. There is nothing we can do about that under Article 1, Section 8 of the Constitution. So you have an automatic trigger here, trigger of any Member of Congress and a trigger of the appropriation process which it goes through twice a year.

I would like to ask you about a hypothetical, so that the legislative autonomy matter, which the ranking member, who has always been very sympathetic to our issues here, Ranking Member Davis of the full committee, I would like to give us a real, live hypothetical that isn't here yet. It could get to be urgent.

I am like everybody else in the Congress. All I am doing is reading the newspaper. I was distressed to hear about Greater Southeast once again. I have been here and in the Congress we did something literally that was necessary to save Greater Southeast from closing and has had many, many problems, and everybody has to be concerned about Greater Southeast Hospital, because that is where not only huge numbers of Washingtonians live, on the other side of the Anacostia, it is the only hospital over there.

Now, I would like you to—

Mr. DAVIS OF ILLINOIS. Ms. Norton, can I suggest that, if you would, you just take the Chair. Mr. Marchant and I do have to go and vote.

Ms. NORTON. Yes, sir.

Mr. DAVIS OF ILLINOIS. If you would just assume the Chair until I return.

Ms. NORTON [presiding]. I will, until you return.

I would really like to put on the record what a situation would do to you, because a lot of what we have talked about you have inherited. You are both new to the office. Now you have inherited Greater Southeast Hospital, too.

Suppose you were to need to do something fairly radical with Greater Southeast so that you would need to restructure the hospital in ways that required a number of legislative changes, and you were put to this process of temporary, permanent—and what's the other one?

Mayor FENTY. Emergency.

Ms. NORTON. Emergency, temporary, permanent. I don't think Members or even I have no real up-close understanding of what that means to the Mayor and the Council who, you pass a bill.

What's the first thing you would do if you pass what I would take it would be a fairly complicated bill on Southeast Hospital and you had to wait for the whatever period of time it took us to get to legislative days? How would you handle that, and what would an emergency mean, how many days? If we hadn't gotten to it yet because we were in recess for months, what would it mean for temporary? And how could you get to permanent? And what would it mean for the hospital, itself?

Mayor FENTY. Well, the days that are available to us, first of all, the limit on an emergency is 90 days, and the scenario—

Ms. NORTON. But 90 days you go and you do what?

Mayor FENTY. Ninety days would enable us to take a piece of legislation where we have to take immediate action and implement it ourselves.

In effect I think what you would have, Congresswoman Norton, is by the time the Congress acted we would have done what we needed to do anyway in order to save the hospital. We don't have the number of days available to us in a situation like that to be able to wait for the Congress to act, and I don't think we should have to, because that is a local issue affecting the residents of the District of Columbia, and the Mayor and the Council should be able to act where we have to in those situations.

The emergency and temporary would respectively give us 90 days—

Ms. NORTON. Ninety days emergency. The temporary is for how long?

Mr. GRAY. For 225 days. So we would have close to a year that we would have available to ourselves.

Ms. NORTON. Just to show you how complicated this can be, since people can intervene into your business any time they get ready, somebody might take umbrage at a particular section of the bill. Remember, for example, Greater Southeast borders Prince George's County. Any Member can get up here, I don't care if you are going to your 90 and your 220 or whatever, as long as we have not gotten to the point where we have approved it, provisions could be changed involving a hospital now on a wing and a prayer, it sounds like.

Mr. GRAY. I think that is absolutely right, and the scenario that we have before us could require the District of Columbia to go in and exercise eminent domain or other extraordinary actions to take over running the hospital. Given the nature of health care, we can't

operate that in a whimsical fashion, so if we take extraordinary measures we would need to be able to continue on that path.

Again, as you have pointed out, and as part of your legislation, those need to be prerogatives that we are able to exercise, and exercise quickly, ourselves in the District of Columbia. But the system that we have now is when the permanent legislation comes here it could in some fashion be changed, which could conflict with the emergency and temporary legislation that not only would have been passed by the city, but we are already in stages of implementation because of the emergency we have before us.

What is really interesting, too, is that there are times when the Council is criticized for the number of emergency pieces of legislation that we enact, without those who are criticizing recognizing the set of circumstances that we have to deal with every day. If we were not to enact emergency legislation in many instances it could bring the city's operations to a halt because of the need to wait for the Congress to act for 30 or 60 legislative days, which—

Ms. NORTON. You don't have any choice.

Mr. GRAY. We don't have a choice. We absolutely don't. If the Council passes a bill in November, it is likely to be the following March before the 30 legislative days have been completed, because of the need to have legislative days and the fact that the Congress is in recess so often during that period. So 30 legislative days becomes 5 months.

Ms. NORTON. I chose the hospital only because I am trying to find something that is complicated and might need to happen soon. It is important what you say: by the time you got through the second period, you are almost through a year, so it is done anyway.

Mr. GRAY. Right.

Ms. NORTON. So what is the point of having the layover? And the notion that we all tout that we have only done three bills—by the way, two of those were bills involving the Federal presence. So we just don't use it, and so why make you use it? Why should Greater Southeast have to wait?

The fiscal implications of that are very interesting, too—

Mr. GRAY. Yes.

Ms. NORTON [continuing]. If you are borrowing money on it. And Congress hasn't said finally what it is going to do.

Mr. GRAY. One of the examples I used in my testimony was the Community Health Care Access Act, which creates money, which provides money as a result of the tobacco settlement. It is over \$200 million. That money would have been the first pool we would have looked to, to use your example with Greater Southeast Hospital, but under the scenario that faced us we had to send the action up to the Congress, which did substantially delay our ability to use the funds that were available to us as a result of the tobacco settlement. We should have been able to use those funds right away from the negotiated settlement. We have extraordinary health care needs, and in this instance, to use your example, we would have had to use those funds immediately.

Mr. DAVIS OF ILLINOIS. Mayor Fenty, you just have been baptized by fire with your school restructure bill and how the situation works up here. So you are left now with, what, 3 months or so to somehow get the whole school system under your authority, every

part of it, from buildings to the health care of children in the system. I don't envy you, and I know you are up to it, but we have certainly made it harder for you.

I wanted to pursue the chairman's question about the fiscal year, especially since Chairman Gray, in his testimony, cited "allow for better budgeting by not having to start the process 4 months earlier than would be required of the District manager's own budget." Could you tell us something about how your fiscal year works, as opposed to maybe how across the river their fiscal years work, and when your budget goes into effect relative to theirs?

Mayor FENTY. If you want to, I will just start out, if Dr. Gandhi would chime in. I think, just very briefly, when the budget year starts on October 1st, if that is the date it is across the river, then that is the date that they have new money available.

Ms. NORTON. I think across the river it would be—

Mayor FENTY. Well, whatever the date is.

Ms. NORTON. States seem to have their fiscal year beginning—

Mr. GANDHI. It is a July June cycle. If, for example, you have to have budget autonomy, my request to the Council and the Mayor would be to follow July June cycle rather than October-September cycle, for two reasons. In particular, as you pointed out, Ms. Norton, our school system academic year, the school year, and university, both of them are on academic year that would more be in line with July June, because most of the expenditure is done early before the school year starts.

The second problem we have, which is a far more fundamental problem, is that our cash inflows, particularly because the real property collections that happen in March and in September, as well as our income tax collection, are not in sync with the Federal October-September, so what happens, Ms. Norton, strangely, if we do not do the so-called temporary borrowing, roughly 9 months out of 12 months our operating cash-flows are in negative.

In other words, we are spending more money than what we are taking in for nine out of the twelve months. So we have to go and borrow money. On an average we have been borrowing about \$250 million every year on a temporary basis, in addition to the \$400 million or so that we borrow on our capital projects. So this really puts—

Ms. NORTON. But for the way in which the fiscal years align, you would not have to pay interest on millions of dollars?

Mr. GANDHI. Yes, ma'am. That is true.

Ms. NORTON. And this would take only a change in the fiscal year?

Mr. GANDHI. Absolutely.

Ms. NORTON. But to change the fiscal year we have to do budget autonomy. It all comes back to as long as your budget has to be enacted by the Congress of the United States, you must be on our fiscal year, and I don't know of any State that is on our fiscal year.

Members are not aware of this. The reason they are not aware of this is because they are aware of things that affect their Districts, and we are going to have to make Members, probably through talking points, aware of what the real effect is. I am not sure that our residents, who have lived only with this system, recognize how much it costs them to live with this system.

I am particularly interested, Mayor Fenty, because of your new authority with the schools, that it not be handicapped by the fiscal year, itself.

I believe you all have already had kind of the gradualism that the Congress might require, because you now get your budget out on time through the CR that allows you to spend next year's money, and the sky has not fallen in the few years we have had that, so this is a very important change between everybody else.

Everybody at HHS, essentially we were treated as a Government agency. There are CRs spending last year's funds. I don't need you to lay out the terrible holocaust that brought on us. But for us we at least spend. Last year you spent at next year's budget, even though we had a CR.

Mid-year autonomy gradualism has worked, and your examples, Mr. Gray, of foster care, children going from foster care to adoption, that which there can be nothing the city would want most being held up because of the budget, and your health care example were particularly searing. Every once in a while there is an example that helps us, not of our own making.

Now, both of you were on the Council at the time when the bonds had to, of course, be let for the ball park. Well, of course, that has nothing to do with us, but bonds have to be in the appropriation, even though that is not anything you spend or we spend. That has to be in the appropriation. That was not in the year-end appropriation, so the Council and the Mayor did what they had to do. They put it in the supplemental.

The way in which I was able to get mid-year budget autonomy is that the newspapers don't understand a lot in the Defense supplemental. It is all about tanks and intelligence. But one thing was in the supplemental that said District of Columbia ball park stadium, so Members of Congress got all these questions about how come you are building a ball park for the District of Columbia in the Iraq supplemental, you rascals, you. At that point I went to the Chair—I was in the minority—and said, Look what you have done to yourself. That is really when we were able to move mid-year budget autonomy.

In other words, it took an embarrassment to the Congress, not the embarrassment and the trouble that the District goes through every year.

I think I have asked all of my questions, because I needed to get out your real life on the table. I think the bond rating point, I am going to ask you to submit for the Chair greater detail on how much in interest you pay during that 9-month period because you do not have budget autonomy. And I would like you to submit examples like the ones that we have discussed and that are in some of your testimony, the school example, for example, so that we can lay out for the Congress why legislative autonomy is, in fact, bad and terrible for you.

I think the hypothetical I offered on Greater Southeast Hospital is an important one because it is complicated and because it is urgent. I would like you to spell out what it is about Greater Southeast, since it is a pending thing. I mean, I read about what they found in the emergency room and the nurses and the doctors not getting paid, and so forth. At some point the city is probably going

to have to take hold of that, and I can envision a piece of legislation that has all kinds of things in intelligence, including, interestingly, Chairman Gray, what you said about maybe needing eminent domain and what do you do. Wait? I don't think so.

So what is the point if you are going to do it anyway because there is nothing in the legislation that says you can't do it during that period? And they put that in there without having 33 years experience. Now we have it. It is time to bring that experience back and lay it on the table.

Very helpful testimony. I thank you for all of your excellent work for the city.

Mayor FENTY. Thank you very much.

Mr. GRAY. Thank you very much.

Ms. NORTON. You have earned budget and legislative autonomy.

Mr. GRAY. Thank you very much for your work on our behalf, Ms. Norton.

Mayor FENTY. Thank you very much.

Ms. NORTON. The chairman has said I should go ahead with the next witnesses and he will return.

I want to thank you both. We swear our witnesses. Mr. Gandhi, we believe everything you say, but you have to stand and be sworn. I let you testify then, but to give your testimony.

[Witnesses sworn.]

Ms. NORTON. The record shows that each witness has answered in the affirmative.

We are pleased to welcome Natwar Gandhi, who was appointed in 2000 as one of the longest-serving officials therefore responsible for \$7 billion in annual operating and capital funds and has had a great deal to do with the bond rating improvement of the District. One of the reasons that we are seeking to secure him a raise he has not had—I believe since you have been here?

Mr. GANDHI. That is correct. As a chief financial officer I have not had any increase in my pay.

Ms. NORTON. Imagine someone who has been with the city for 7 years at the same rate of pay who came to the city when the city was on its knees and has helped the city now to the point where it has an A+ rating having to come here and being turned down for an increase because they did not like the amount of the increase, so we have not been able to get it through. Real life example of what a city shouldn't have to do.

We are pleased to welcome Brian Flowers, as well, who is the general counsel for the District of Columbia City Council, who advises the City Council on all matters relating to legislation.

You have heard the chairman's admonition about green and yellow lights, so please proceed.

STATEMENTS OF NATWAR GANDHI, CHIEF FINANCIAL OFFICER, GOVERNMENT OF DISTRICT OF COLUMBIA; BRIAN FLOWERS, GENERAL COUNSEL, DISTRICT OF COLUMBIA'S CITY COUNCIL; AND JOHN HILL, CHIEF EXECUTIVE OFFICER, FEDERAL CITY COUNCIL

STATEMENT OF NATWAR GANDHI

Mr. GANDHI. Thank you, Ms. Norton. Good afternoon.

For the record, I am Natwar M. Gandhi, chief financial officer of the District.

Before I begin, I want to express my view that, both as a citizen of the District and the District's senior financial manager, I wholeheartedly endorse expanding the authority of the District to manage its own financial affairs. Not only do I believe that the District's leadership has demonstrated its ability to follow the principles of fiscal responsibility; I also believe that without greater budget autonomy the citizens of the District, as well as visitors, have been and may continue to be denied access to certain public services in a timely manner.

The chart that appears before you and also attached to my testimony is a history of the remarkable fiscal comeback achieved by the District over the past decade, as you already mentioned. It is a great testimony to the financially responsible budgeting and fiscal prudence exercised by the District's elected leadership.

Our fiscal low point occurred in 1996, when the general fund balance hit a negative \$518 million. Through the efforts of former Mayor Williams, the District Council, and the Control Board, we were able to put our fiscal house in order. And we also appreciate particularly your leadership, Ms. Norton, during those days.

The Control Board was deactivated in 2001. Between 1996 and the end of 2001, there had been a \$1 billion increase in our fund balance.

But the real test for the District was a challenge of sustaining the fiscal stability in the post-control period. As you can see, at the end of 2005 the general fund balance had risen to another billion dollars to \$1.6 billion. I believe that it is significant that, of the \$2.1 billion increase in our general fund balance between year 1996 and 2005, the amount of gain since the control period ended was about equal to the gain during the control period. This is concrete evidence of the District's practice of conservative budgeting which continues under Mayor Fenty's leadership, as exhibited in his proposed fiscal year 2008 budget.

The District Council, under the leadership of Chairman Gray, has just yesterday adopted the District's budget using same conservative budgeting principle and sound financial practices.

A measure of the success is reflected in our bond ratings. As has been pointed out by Mayor and Council Chair, all three rating agencies have recognized our improved creditworthiness by raising our bond ratings from junk bond status to A+ category.

It is notable that, compared to other major cities that experienced periods of financial stress, including New York, Philadelphia, Cleveland, and Detroit, this turn-around is the fastest.

Now let me turn to the issues of the budget autonomy and point out that under the current law all of our spending is authorized by the Congress, irrespective of the source of revenue. In the District's 2007 gross budget of about \$8 billion, about \$6 billion, or 74 percent, was comprised of revenues raised locally. Only \$120 million in Federal payments were specifically appropriated from Federal revenues for programs and projects unique to the District. The balance was comprised of formula-based Federal grants which are available to all jurisdictions nationwide. Therefore, I would argue that only the Federal payments that are specifically and uniquely

earmarked for District programs or Federal initiatives must be appropriated by the Congress.

Now, the Mayor and the Council Chair already talked about the benefits to the District of our budget autonomy. I will not dwell on it more, but simply to point out that the current law already provides the framework for assuring the financial integrity without the need for imposing the Federal appropriation process on the local fund budgets.

Congress has created within the District's Home Rule Act a permanent office of the Office of the Chief Financial Officer. This office provides an independent assessment of key financial data, annual comprehensive financial reports, revenue estimates, fiscal impact statements, and all other consequential financial data.

I believe that the existence of an independent chief financial officer, along with the prudent leadership demonstrated by our elected officials, that is sufficient to ensure the fiscal discipline without the added complexity of putting local spending plans through Federal appropriation process. Thus, there is no question the District has the financial infrastructure to permit it to manage its local funds effectively. Moreover, since the deactivation of the Control Board in 2001, District's elected leaders have achieved an exemplary record of fiscal prudence. Financial markets have recognized it in the forms of lower interest rates on our borrowings, and rating agencies raising our bond ratings.

In summary, Ms. Norton, the District's leadership has the will and the information necessary to make the informed decision, and the District has a proven record of functioning in a fiscally responsible manner. Based on this commendable record, we deserve a greater degree of confidence in the form of budget autonomy.

Ms. Norton, this concludes my oral remarks. May I request to put my full written testimony in the record.

I will be pleased to answer any questions you may have.

Ms. NORTON. Before I ask Mr. Flowers to come, could I ask John Hill to come forward, because you are not invited here in your new capacity, you are really invited here in your prior capacity as the executive director of the Control Board. So when questions come, I would prefer to have the three of you here at the same time.

Would you please stand so that I can swear you in?

[Witness sworn.]

Ms. NORTON. The record will show that the witness replied in the affirmative.

Mr. Flowers, please proceed.

STATEMENT OF BRIAN FLOWERS

Mr. FLOWERS. Good afternoon, Congresswoman Norton. I want to thank you for introducing this legislation once again and for giving me an opportunity to appear before you and attempt to persuade Congress to do what no one else has been able to do in the 30 years of Home Rule, and that is to give the District some measure of budget and legislative autonomy.

Before I begin, I want to respectfully request that my entire statement be entered into the record, because I will be summarizing.

I intend to address primarily three areas in this testimony. First, to offer some insight into the impact that the congressional review period has upon the District's legislative process, and then I will offer some specific comments on the legislation and then conclude with why the congressional review period no longer serves a useful purpose.

I have attached a chart to my testimony that reflects that approximately two-thirds of the bills that the Council adopts could be eliminated if there was no congressional review requirement. The mandatory congressional review period has resulted in the Council, and our office, in particular, mastering what appears to a lot of people as a legislative circus where there are many balls or bills in the air and we don't know when they will come down.

We have become masters at counting congressional days. Each night when I drive home I pass the Capitol dome and I know if the light is illuminated that is one less day before our laws will become effective.

The process of counting congressional days is something that cannot be left to a machine for critical count; it is something that can only be done by a person, and that is really something that is unnecessary, and it is done multiple times by multiple people.

The 30 calendar day period of congressional review is never that. It is more like a 3-month period, and in some instances a much longer period.

By way of illustration, a recent enactment, D.C. Law 16-305, which merely changed the word handicap to disability, required a 9-month period before it became effective, due to the adjournment of the 110th Congress and the fact that it was in the criminal code, requiring a 60-day review period rather than a 30-day review period.

This situation is not atypical. It happens every 2 years. It happens to a lesser degree over the August recess, in which bills require 5, 7, and 9 months before they become effective.

The unpredictability of the congressional review period requires the Council to adopt bills on an emergency, temporary, and permanent basis quite often to compensate for these long periods of delay. It is our office that is, in part, responsible for tracking whether these bills remain effective, when they expire, and whether there is a gap in any legal authority.

The Council's authority to adopt emergency legislation is found in the District Charter, and it requires the Council to make a determination that emergency circumstances are present. The Council has defined an emergency to factor in the congressional delay, and the way that we legislate at times is confusing to the public, because when they hear the word emergency they think they are thinking that it is a situation that only involves a threat to the immediate health, safety, and welfare of the public, but it also factors in the congressional delay, and so when we use the term emergency it doesn't only mean health, safety, and welfare, but it is also to ensure that bills become effective.

This practice has been scrutinized by the courts, and in my statement I cite some of the judicial precedent. Our practice has evolved over time, and it has evolved in response to these judicial decisions.

I have included a copy in my statement, a copy of the type of chart that we use to track emergency, temporary, and permanent legislation. This particular chart has 47 different sets of emergency, permanent, and temporary bills, but, by way of comparison, during the month of February when the 109th Congress adjourned, we were tracking 81 sets of these acts. I use the term set, because we must track the permanent acts that have related emergency, and temporary acts that contain the same language.

Each emergency also has with it a resolution and emergency declaration resolution, so it is even more legislation that is driven by the congressional review requirement.

One thing I want to make clear for the record is that neither of these bills would actually eliminate congressional review; they would only eliminate congressional review under the provisions of the Home Rule Act. That would be 602, 603, so they will not eliminate congressional review, in fact.

I won't repeat in detail the statistics with respect to congressional disapprovals because we have heard them repeated many times now, but one thing I do want to emphasize is that, in terms of the bills that we do transmit to Congress, in the last Council period there were 308 acts that were transmitted, but that does not translate into 308 transmittals, because we transmit at least seven copies of each act to Congress, and this year that list of transmittals is 11, so you have to multiply the number of acts times 11 to actually get the actual number of legislation that we transmit. That helps to explain the burden that is imposed upon the Council.

So I would just conclude by bringing forth the observation that the congressional review period is no longer used, hasn't been used since 1991. Congress has found a much more efficient way of disapproving, amending, or repealing District legislation, and the recent Public Education Reform Amendment Act is a very good example of that, in which a bill was introduced in Congress and essentially approved in 30 calendar days.

I would just conclude, finally, by stating that this is not a new request by the Council. We have many records and letters in our file, congressional testimony in which the Council has requested the elimination of this review period. I would hope, Mr. Chairman, that, as a former member of the Chicago City Council and the Cook County Board of Commissioners, you understand how important it is for legislation to have to be implemented in a timely basis to respond to local concerns, and I would just respectfully ask that you move the legislation forward.

Thank you.

Mr. DAVIS OF ILLINOIS [presiding]. Thank you very much. Let me just thank Delegate Norton for carrying on so that you didn't have to wait and be here longer than necessary.

Mr. Hill, you may proceed.

STATEMENT OF JOHN HILL

Mr. HILL. Good afternoon, Chairman Davis and Ranking Member Marchant and Congresswoman Norton. I am John Hill, and I appreciate the opportunity to testify in support of both H.R. 733 and H.R. 1054.

As you well know, the District has made tremendous strides over the past decade in terms of improved financial management and legislative activity. I have personally witnessed this progress, having been GAO's chief witness before the Congress on issues raised by the District's financial crisis in 1994, and having been appointed as executive director of the District of Columbia Financial Control Board, which was created by Congress in 1995 to guide both the financial and the management recovery of the District of Columbia government.

When the Financial Control Board was created, the District was truly in a fiscal state of emergency with significant accumulated operating deficits, cash shortfalls, inefficient management, and no sign of relief from its financial troubles were in sight.

The Control Board worked closely with city officials to improve the integrity in budget development and execution to accurately project revenues, efficiently and effectively collect taxes, and to incorporate fiscal discipline in the enactment of legislation.

By 2001, the District had produced four consecutive balanced budgets, repaid much of its debt, built its financial reserves, and regained access to capital markets and improved cost.

The speed of the District's financial recovery is unique among recoveries by major cities from severe financial crisis. New York City took 11 years from the start of the control period to the sunset of the Control Board.

Today the District continues its steady record of balanced budgets, sound financial management, and fiscal discipline under the leadership of the Mayor, the Council, and the chief financial officer. As a result, the city enjoys unprecedented prosperity and has a stellar reputation on Wall Street, as seen through the steady improvement of the District's bond ratings.

I believe the District, like other major cities across the country, deserves the flexibility and the authority to implement its budgetary and legislative decisions going forward.

The District of Columbia Budget Autonomy Act will eliminate all federally imposed mandates over the local budget process, financial management, and borrowing. Given the fact that the Congress has not recently demonstrated the need for changing the local budget approved by the city, providing the District budget autonomy would simply make the budget process more efficient and straightforward.

While the congressional budget review process would be eliminated by this proposal, two things should be noted. First, nothing in this proposal would remove the Congress' Constitutional authority to exercise oversight over the District of Columbia. In addition, the proposal before you does not eliminate the measures set forth in the Control Board Act in 1995. The law would continue to provide for the return of the Financial Control Board in the event that the District slips back toward financial crisis and a control period becomes necessary.

The city has demonstrated a commitment to maintaining fiscal control and discipline and other practices that have resulted in the city's positive financial health, and for this reason I am supportive of greater budget autonomy for the District.

By the way, I would like to say I also lived through that control period, as did many of the people who may have testified, and cer-

tainly they are still on the Council. I know that none of them, especially in my conversations with them over the years, they would want to do everything possible to make sure that never happens again. It really was a dark period for the city, and we need to make sure that doesn't occur. With the controls that are in place, I believe that it is very, very unlikely that could ever happen again.

I have had the opportunity to work closely with the Mayor, the Council Chair, and members of the D.C. Council, and I appreciate the leadership, the collaboration, and the deliberation that they bring to the legislative process.

In summary, having been a participant in the District's recovery from its financial and management troubles during the mid-1990's and having been a witness to the substantial progress of the city under the leadership of the Mayor, the Council, and the chief financial officer, I firmly believe that both budget and legislative autonomy proposed in the two bills before you are in order and appropriate.

Thank you for this opportunity to testify on these important bills. I will be happy to answer any questions.

Mr. DAVIS OF ILLINOIS. I thank the gentleman very much for your testimony.

We will just move into some questions.

Dr. Gandhi, let me ask you, the granting the District autonomy over its budgetary process and over its budget will add what to your ability to more effectively or to better do your job?

Mr. GANDHI. Thank you, Chairman.

I think it would give the city, first of all, flexibility to manage its financial affairs far more effectively and in time than is otherwise the case.

What happens here is that we have to start our budget cycle right from February when we provide revenue estimate to the Mayor and the Council. Mayors have responded in March. Council deliberates on it, and we together submit to Congress in June. Indeed, today will be the day we will provide to the committee our final budget. It will not start, the year will not start until four more months, October.

So the question here is that if we had our own budget autonomy, the numbers with which we would be dealing would be far more current. Right now, from the revenue estimation to the end of the fiscal year you are talking about 20 months, and in those months the revenue picture may change. The expenditure picture may change, as well. And we cannot really take actions to take care of those emergencies unless we come to the supplemental appropriation process to the Congress.

If you look over the last eighteen years, only three times the Congress had passed the budget Federal appropriation, our appropriation, on time. That was in 1997, 1995, and 1992. The remaining 15 years we simply had to wait for the final approval by the Congress and by the signing by the President.

The last thing I would say is what you had asked our Mayor and Council Chair, that our revenue cycle is more in tune with July June timeframe than October-September. Two of the major cash inflows that we do get in real property and income taxes happen

in March and in September, while our cash outflows are on a regular basis every month.

As I mentioned earlier to Ms. Norton, only in 3 months out of the year we will have a positive operating cash-flow. Remaining months we would have a negative cash-flow such that we have to borrow on a temporary basis, and we borrow roughly \$250 million every year for which we have to pay interest.

So, given all these things, it would be far more effective, financially speaking, to have our budget cycle more like a city or a State, which would be more like July-June than October-September.

Mr. DAVIS OF ILLINOIS. How much money does the District actually get from the Federal Government?

Mr. GANDHI. Federal Government, we would get basically—the money that is unique to the District, and only for District, is around, I would say, \$150 to \$170 million, which is roughly 1.4 percent of our overall budget.

Now, we do get about \$2 billion, but those are formula-based grants that are available to any jurisdiction, like Medicaid. All right? So that is about, I would say, 25 to 26 percent. So roughly 74 or 75 percent of the city's budget is based upon locally raised revenue.

Mr. DAVIS OF ILLINOIS. So the formula grants are the same that any city, Sweetland, Illinois, would—

Mr. GANDHI. Absolutely. They all get it. Yes. Yes, sir.

Mr. DAVIS OF ILLINOIS. Depending on the number of people and the socio-economic conditions and all of those things that are there.

If some people who suggest or who feel somehow or another that, should the District have autonomy to handle, in terms of approving its fiscal operations and all, that there might be this remote possibility of some slippage back to the days of yesteryear. What safeguards are there in place that would unequivocally prevent this from happening?

Mr. GANDHI. Thank you, Mr. Chairman. That is a very relevant question, and the question is often asked whenever I mention the issue of budget autonomy.

Most fundamental fact here is that there is a change in the culture at the District level in our elected leadership. As Mr. Hill pointed out just now, no one in the elected leadership or otherwise ever wants to go back to the old ways of doing things, so that is not in the cards.

Two, Congress has established my office, the Office of the Chief Financial Officer, whose primary function is to assure the Mayor and the Council and, of course, the Congress that the city will never again go bankrupt, that all the budgets that are submitted to the Hill are certified by the independent Office of the Chief Financial Officer as balanced.

Three, we are among the very few jurisdictions that have to have a 5-year balanced budget plan. We cannot just plan for 1 year and shift revenues and expenditures across the years to balance the budget. We cannot do that. It has to be a 5-year balanced budget plan.

Fourth, we have, in addition to the Federal anti-deficiency law, we have our own anti-deficiency law at the local level, which is far more Draconian than the Federal level.

Five, we have now among the largest number of reserve, highest amount of the reserves in the country. We have 6 percent of our budget in reserves, emergency and contingency reserves that are legislated and mandated by the Congress. That amounts to about \$250 million, plus city has provided its own operating reserves of over \$50 million, so you are talking about \$300 million of cash reserves available to us.

When you add all these things, there are layers and layers of assurances that are provided by the Congress, by the city, itself, that my firm conviction is the city will never go back to the old ways of doing things.

Mr. DAVIS OF ILLINOIS. Mr. Flowers, I am sure that you have seen other governments. I mean, you have studied other governments. You have studied other processes and all. Is there anything that you can think of about the way the District operates that would inhibit or cause it not to be as effective, as efficient, as logical, as sane as any other sovereign municipal government in operating its affairs?

Mr. FLOWERS. The only thing that immediately comes to mind is Section 602 of the Home Rule Act, the provision that prevents us from acting on legislation and implementing legislation in a timely manner. That is what immediately comes to mind, since that is the subject of this hearing.

Mr. DAVIS OF ILLINOIS. I mean, if there is a need to do something, to change something, to implement something, to cause something to happen, the length of time that it takes to do it could, in fact, be a serious impediment to the city's solving or moving in the direction of meeting the need or solving the problem that it had?

Mr. FLOWERS. Yes, sir, it certainly could, and it also at times has threatened the enforcement of some of our criminal laws, because there is so much coordination that is required between the emergency, temporary, and permanent act. If there is any gap in the enforcement of a criminal law, then that really creates a cloud on everything in terms of the scheme that we have established for prosecution. It could be prosecuting.

What we recently did was there was a rebuttable presumption that was in an emergency, rebuttable presumption that a person should be detained if they were found to possess a handgun. This was found in one particular title of an act, and that act had been adopted as an emergency, and that particular title had not been enacted as a permanent, had not been enacted as a temporary bill. And so if we have an act that has multiple titles, some of which have been enacted as permanent, some of which have not, then there are real issues that are raised in terms of the restrictions that the courts have placed upon us since we cannot adopt consecutive emergencies unless something has been transmitted to the Hill. So there is always the risk that even the enforcement of our criminal laws would be threatened by this process.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. Marchant.

Mr. MARCHANT. Thank you.

First of all, Dr. Gandhi, there is a financial audit, an independent audit done on the city. Does that audit take place under your direction? And is it addressed to you or is it to the city?

Mr. GANDHI. No, sir. The audit is an external auditor conducting independent audit, and that is commissioned by our Inspector General, which, again, does not report to the Mayor or the Council. It is an independent office, again, established by the Congress.

Inspector General is in charge of that particular audit, and we are expected to have a clean audit every year. As Mayor and the Council Chair pointed out, we have had 10 consecutive balanced budgets with a clean audit over the last 10 years.

Mr. MARCHANT. Do you deal with the particular covenants of bond issues, yourself?

Mr. GANDHI. Yes, sir, I do.

Mr. MARCHANT. Are there any differences in the bond covenants with bonds sold by D.C. than any other city in the United States?

Mr. GANDHI. No, sir. They are just plain municipal bonds.

Mr. MARCHANT. And revenue bonds, general obligation bonds?

Mr. GANDHI. Same.

Mr. MARCHANT. Etc.

Mr. GANDHI. Same.

Mr. MARCHANT. So there are no default provisions or no extenuating circumstances in the bonds that would give a caveat to actions of Congress?

Mr. GANDHI. Well, the consequences for District are far greater, because if you ever default on a bond, debt service, the Control Board could be back.

Mr. MARCHANT. I am asking it in exactly the opposite direction. Is there any default mechanism or anything in the bonds that says if Congress takes a certain punitive action toward the District, that the bonds, themselves, could be in default?

Mr. GANDHI. In other words, if Congress were to do something, would that mean the default of the bonds? I, frankly, cannot imagine that. However, what we want to keep in mind is that nothing the District currently does, that has not had the congressional approval, so when the rating agencies take into account as to how they want to rate us, they look at many things. One of them is the congressional oversight, and also the delays that happen in the congressional budget.

As I pointed out earlier, Mr. Marchant, there have been significant delays in the past in the congressional approval of the city's budget.

Mr. MARCHANT. Let me ask it another way. You do not think that there is any quality upgrade given to the city on its bond rating because the bonding agencies know that there are these additional levels of oversight on this city as opposed to another city?

Mr. GANDHI. Well, bond agencies do look, and they mentioned this on their report on the District, that there is a congressional oversight on our bonds. They do look at that.

Mr. MARCHANT. And it would be your testimony that, with removal of some of that oversight, which these bills do, there would be no adverse effect on the bond rating?

Mr. GANDHI. I do not think so, primarily because, as I pointed out earlier, there are enough safeguards in the District from the

Congress such that the removal of the congressional oversight would have any substantial impact. The most fundamental of all that, and important, is the independent Office of the Chief Financial Officer, which again is established by the Congress. Nothing in the District moves on a financial front without the approval of the chief financial officer. And then Congress—

Mr. MARCHANT. I am just asking—

Mr. GANDHI. No, the rating agencies have—

Mr. MARCHANT [continuing]. The question of unintended consequences of this freedom.

Mr. GANDHI. Yes.

Mr. MARCHANT. OK. Thank you.

Mr. DAVIS OF ILLINOIS. Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Let me followup on Mr. Marchant's question. I can understand it, because it is such a strange process. Let's see what it does. Let's see if there is any value added here.

Again, I am sorry, the law professor does come out in me, particularly when I am asking questions. But this one is a real life hypothetical. Let's see if there is any value added in having the Congress here.

We have established that it delays and there is a cloud over the budget that we don't have a AAA in part because the bond markets know that Congress has to be involved in the process.

Now, let's see if, once Congress gets involved in the process, we get some value added. Can we agree that the budget has to be balanced and always had to be balanced?

Mr. GANDHI. Yes.

Ms. NORTON. That wasn't something the Congress put into effect. When the District of Columbia became insolvent, it was because the budget was not balanced; is that not correct?

Mr. GANDHI. That is correct.

Mr. HILL. It was also because of the cash shortages, not just the balanced budget, but it was the cash shortage. On paper, the budget appeared to be in balance, but in actuality it was not.

Ms. NORTON. That is where I want to go. That budget and all prior budgets and all budgets ever since there has been a District of Columbia have had oversight by the Congress of the United States, and yet the Congress approved a budget and the District of Columbia became insolvent.

The major reasons for that, would you agree that perhaps the major reason for that was that there was no independent CFO?

Mr. HILL. Well, there were a couple of reasons.

Ms. NORTON. I want to get to the shortages in a moment, because I think that is a separate issue. In terms of the Congress having said, OK, this was enacted, that budget was enacted by the Congress of the United States, and I will tell you exactly when because I was up here and had to be the Member to come forward and say I believe the District of Columbia must have a Control Board. It was enacted the end of September. By the way, by November nobody in the Congress pointed it out. The Washington Post ran a story that said we believe that the District of Columbia is insolvent. In other words, the oversight was done better by the press than by the Congress, which has an authorizing committee

and an appropriation committee here and the same double kind of oversight in the Senate. Yet, all passed the D.C. budget. Two months later the District went bankrupt. So much for value added.

I am just looking at the paper. They had hearings. They had good staff. They looked at the paper. They don't just pass it through. They never changed, as long as I have been up here, any part of the budget. But I can tell you that there is good staff that goes over the budget, because paper is what you give people.

I want to move to Mr. Hill's question, because I was going to ask how did the District recover, given the fact that it ran out of money, not just out of a balanced budget concept. It ran out of money.

We know that the District's recovery for all the credit the District deserves is fast in part because the Congress of the United States took over the cost of some State functions. I hasten to add that it did not take over the cost of many State functions, but it is hard to believe we could have gotten out of insolvency if, for example, the \$5 billion pension liability had remained and if some of the State functions—courts, which we paid for, for example—remained.

So Congress helped a great deal by taking over some costs and some important costs. Maybe that has more to do with it than I am giving credit for. Why did the city make such a fast recovery.

Mr. HILL. I think there were three or four different things that caused that. I think one was the city started to really and accurately estimate the amount of tax revenue that was coming in.

Ms. NORTON. Now, this happened after there was a CFO or while there was a Control Board?

Mr. HILL. This happened while there was a Control Board.

Ms. NORTON. They didn't have any choice?

Mr. HILL. And there was an independent CFO in Tony Williams at the time, and, in fact, Dr. Gandhi was the Director of Tax and Revenue. If the truth be told, it was also the collection of the taxes that were owed by the District which had gone uncollected. In fact—

Ms. NORTON. Why did that happen? If people owed you taxes, why didn't you collect them?

Mr. HILL. There was not a tax system. Taxes were in piles on the floor. Checks hadn't been cashed. There was not the fiscal discipline that was necessary within a tax operation—

Ms. NORTON. And the CFO's office straightened that out? The former Mayor was the CFO before that?

Mr. HILL. That is right. That is right. That was all straightened out. Right.

Ms. NORTON. He deserves great credit here, as well.

Mr. HILL. Yes. And Dr. Gandhi was in charge of tax and revenue at the time.

And then also looking at the expenditures, one of the issues that gave rise to a lack of cash was the treating of expenditures to D.C. General Hospital as loans, and then the auditor allowing them to stay on the financial statements as loans, even though there was no possible way that they could be paid back.

That really caused cash to go out the door as an expenditure, but to not be shown as an expenditure, so you were really over your budget, but it wasn't showing as being over the budget.

So correcting that and showing that expenditures and recording expenditures as expenditures when they occurred was also part of the discipline that was created by the Control Board and the CFO.

Ms. NORTON. One of you spoke about conservative budgeting. Politicians don't just to conservative budgeting to be doing it. This goes, as well, to I think the good questions of Mr. Marchant, who wants to know how come—and I think the chairman has asked this question, as well—what is going to keep this from happening again. The responses have tended to be, we have learned our lesson kind of, we are good people. The fact is, we are talking about institutional changes that would make this impossible.

Of course, if it happened, if somehow those institutional changes failed, you had a crooked CFO who somehow the city went into so you gave books and there was no good outside auditor, you had books that showed you in balance, then you would just be back under the Control Board, which means back under the Congress again in the worst way, who would then appointment a Control Board and every member of the Control Board, the way we did it before. So in a real sense there is no going back, not because you all are nice, not because you all are good, but because, working with the city, we have built in institutions that keep you "budgeting conservatively."

Would you please explain how you can make the Congress understand that the Council does not go spendthrift on us and budgets conservatively. What institutionally makes that happen?

Mr. GANDHI. Ms. Norton, you are exactly right. It is the institutional change of the imposition of an Office of Independent Chief Financial Officer at the city level is what really makes the difference, if I can be so presumptuous in saying so. Primarily, it is the CFO's responsibility that the numbers that are provided to the Congress, the books, accounts, etc.—

Ms. NORTON. Pause a minute. The Mayor appoints the CFO, so what is to keep the CFO from being beholden to the Mayor and getting in a room with him and just kind of fooling us all?

Mr. GANDHI. Again, the Office of the Independent Chief Financial Officer, even though the Mayor appoints the CFO, but the Mayor cannot fire the CFO without a cause, with two-thirds of the majority of the Council agreeing to that, and the decision has to be made on the Hill for 30 days.

Ms. NORTON. I don't have to do that any more, but the two-thirds, the Mayor would have to get two-thirds of the Council to agree with him to fire. And does not the CFO have a term?

Mr. GANDHI. He has a 10-year or 5-year term, and that, by any measure, this is the most independent and most powerful chief financial officer at the municipal level in the country.

Ms. NORTON. Does that term overlap the Mayor's term, or is it—

Mr. GANDHI. Absolutely. Mayor has a 4-year term, and the CFO has a 5-year term. And in this case, you can disagree with the Mayor and you can still be in the office that afternoon. Everyone else would be sitting at home.

Further, what you have to keep in mind here is that the primary and the fundamental function of the chief financial officer is to assure the Congress—of course, the Mayor and the Council and the citizens—that city would retain its financial viability and financial stability by ensuring the balanced budget, by ensuring the cash-flows, and, above all, making sure that all the laws that are proposed to the Council are fiscally viable in a 5-year plan.

Ms. NORTON. If the Council tomorrow were to propose to give \$1 million to some institution, what role would the CFO have, if at all.

Mr. GANDHI. No. It has a very permanent role. CFO would then provide a fiscal impact statement to the Council and to the Mayor and say that this million dollars has this impact on the 5-year balanced budget plan. For a moment, if you were to assume that million dollars would upset the balanced budget, then either the Mayor and the Council would have to raise a million dollars of taxes or cut expenditures elsewhere. But the balanced budget—

Ms. NORTON. That is like pay-go.

Mr. GANDHI. Exactly.

Ms. NORTON. That is pay-go, what we are trying to do up here now. If you want a raise, you either have to have the money there or you have to take it from someplace else.

Mr. GANDHI. And it is the CFO who basically provides the estimation of expenditures, as well as revenues, independent of the Mayor and the Council. It is the CFO's estimation of revenue that counts.

So at the beginning of the fiscal year in February, to measure this, we provide revenue estimate to the Mayor and the Council and say, OK, you have \$5 billion to spend. And we will also tell them what is the baseline budget.

Let's suppose the baseline budget is \$5.2 billion. Then we would say that he will have to cut \$200 million somewhere because you have only \$5 billion in revenue.

So it is the CFO's numbers that really matter. Mayor and the Council cannot influence that, those numbers.

Ms. NORTON. They have no role in that. They have no role whatsoever in the estimate?

Mr. GANDHI. No.

Ms. NORTON. Mr. Flowers, I am not sure that our voting Members were in the room, but I was astounded. I did not know this. You testified that the District of Columbia would not have to pass two-thirds of the laws it now passes except for this temporary, permanent, etc. process. It is important for Members to hear why they have to pass redundant bills, just that part.

When you go to the temporary, you pass a bill. When you go to the permanent, what are you passing?

Mr. FLOWERS. We are passing the same bill. The only requirement is that there be a bill pending in Congress that is substantially similar to the emergency.

I want to clarify a statement that I made earlier in terms of the congressional review period threatening public safety. This actually happened at the end of last summer. The Council passed a juvenile crime emergency bill on an emergency basis in response to a rash of juvenile murders, I believe, and that bill was good for 90 days.

Since Congress was not in session, the Council could not adopt another emergency bill to maintain that juvenile crime emergency.

Ms. NORTON. Because it takes 60 days?

Mr. FLOWERS. Not because it takes 60 days, but because Congress was not in session.

Ms. NORTON. You are talking about criminal law?

Mr. FLOWERS. That is correct.

Ms. NORTON. Which takes 60 days, not 30 days?

Mr. FLOWERS. Yes. But in this instance it was only because we could not transmit anything to Congress in order for this bill to remain in effect.

Ms. NORTON. Because we weren't even here.

Mr. FLOWERS. Yes. I believe it was in an election year, I believe it was. We take note of those things.

Ms. NORTON. What did you do then, Mr. Flowers?

Mr. FLOWERS. What we did was we adopted a different emergency. It wasn't quite the same. It was a little bit different.

Ms. NORTON. So what we are talking about—

Mr. FLOWERS. Subject to challenge.

Ms. NORTON. What we are talking about is the upper level here. The upper level, I take it, would be the original bills, and everything here are the exact same bill that gets—

Mr. FLOWERS. That is correct. They are the same bills. Now, there is a little bit of wiggle room there, but potentially those emergencies and temporaries are driven by the congressional review period. If there were no congressional review period, we would not have to adopt those bills.

Ms. NORTON. Occasionally I hear that there is a law that just expired, not because you all missed the period, but it just expired. Can you recall one of those or how that would happen?

Mr. FLOWERS. They all expire. All emergencies and temporaries.

Ms. NORTON. I am talking about a law that just kind of never did get—it was enacted, went through the temporary period, but kind of never did make it through.

Mr. FLOWERS. You are saying there was no permanent law?

Ms. NORTON. Yes.

Mr. FLOWERS. Yes. I think some of that is a result of the culture that has been created by the congressional review requirement that some of our laws are only adopted on an emergency and temporary basis, and some of them are not needed to be permanently in effect.

One example of a bill that has been adopted on an emergency and temporary basis for several years is a pay differential for government employees who are in the Reserves and deployed in Iraq, Afghanistan, because the Council, we have no way of knowing how long that conflict is going to last, and so it is only budgeted for a short period of time. It is not permanently put into the budget, so that provision has been enacted on an emergency and temporary basis for, I believe, 3 years.

Ms. NORTON. So you just keep doing it?

Mr. FLOWERS. That is one, yes.

Ms. NORTON. Just keep doing it. You just keep coming back because you may not need it permanently?

Mr. FLOWERS. That is correct. We hope the war will end.

Ms. NORTON. This really belongs in the Valley of the Absurd when it comes to government.

I would like to ask you about actually Mr. Gandhi and his testimony talks about inter-appropriation transfers and reprogramming of requests. You say on page 7, "All re-programmings from one object class of expense to another in excess of only \$3 million require a congressional review period of 15 days before enactment." That is something I was not even aware of.

Mr. GANDHI. Yes, ma'am. That is a requirement.

Ms. NORTON. So would you give us an example of that so that the record can show, if we are reprogramming, where you go back to your legislature and say I need this money over here rather than there?

Mr. GANDHI. Given that we have a complex government, because we combine the State, county, municipality, and the school district, given that we have all kinds of emergencies that arise, we shift money from one department to another department, one function to another function, and at that time, whenever we do that, more than \$3 million, we have to come back to the Congress and get the approval from the Congress.

Ms. NORTON. Do you do a lot of re-programmings and shifts, or do you just let it be because it is just too much trouble?

Mr. GANDHI. No, we have to because we cannot spend. Money that is appropriated for a given purpose must be spent for that purpose only. Suppose we need it somewhere else?

Ms. NORTON. But, Mr. Flowers, this question goes to when you get that kind of request, because the money is needed one place and it just happens that you have the money but it is in the wrong column.

Mr. FLOWERS. Yes.

Ms. NORTON. Do you have any sense of how often that occurs and whether or not you get sufficient numbers so that to do it just leaves the city perhaps leaving it be because of the time it would take?

Mr. FLOWERS. Well, we do have a local reprogramming law, and we work cooperatively with the Mayor and the chief financial officer. I believe there is a congressional notification requirement for re-programmings in the Appropriations Act.

Ms. NORTON. It says 15 days in here.

Mr. GANDHI. Yes.

Ms. NORTON. But that is 15 days. In other words, let's be clear then. After 15 days if you want to change it is OK.

Mr. GANDHI. Right.

Ms. NORTON. But that is still legislative days?

Mr. GANDHI. That is correct.

Ms. NORTON. Do you have any sense of how many of those come up a year?

Mr. FLOWERS. I don't. I could not answer that.

Ms. NORTON. Well, does it require the Council to know in advance, the CFO to know in advance, the Mayor to know in advance what column everything belongs in and to have to go through gymnastics and to come to the Congress to say I have some money but I want to change it from Column A to Column B? It is just another example that needs to be laid on the record.

Mr. GANDHI. And may I just give you a number? There are about 100 a year that we have to do this kind of reallocation.

Ms. NORTON. About 100 of those re-programmings?

Mr. GANDHI. Yes, ma'am.

Ms. NORTON. Thank you. That answers my question.

Final question. I would like to get one more thing done, and I wish you would tell the Congress about what is has done. The District was doing so well that it had a surplus so large that one would consider it absurd. That is to say, it was a surplus that kept growing because they couldn't spend it for any purpose, even to spend it to pay it back. Would you tell us how high that surplus got, and would you lay out the bill we were able to get passed through here which allows the District to spend some of its huge surplus funds?

Mr. GANDHI. As you can see the chart that is here, we had about \$500 million deficit in our fund balance in the mid-1990's. Currently we enjoy roughly \$1.5 billion in our fund balance surplus. The question for us is that, we are in government in great deal of need. We have to spend money, and we need that authority from the Congress throughout the year.

Well, given that, we have to come for every additional money that we want to spend after the budget is enacted and we have to wait for an appropriation, supplemental appropriation.

What Congress has done, under Ms. Norton's guidance and leadership, is that now you would allow us to spend up to 6 percent of our budget into supplemental appropriations without coming here.

Ms. NORTON. I am sorry. I am talking about the reserve funds. I am not talking about mid-year budget autonomy.

Mr. GANDHI. Right.

Ms. NORTON. I am talking about the reserve funds where you have to pay back at the end of the year, but you can now spend your reserve funds for needs as they arise.

Mr. GANDHI. That is the supplemental for which we have to come to you. These reserves that are accumulated here, the bulk of that is congressionally mandated and for the very specific purpose like emergency and contingency reserves. But whatever we want to spend, suppose the CFO identifies additional revenue throughout the year, the four times a year that we provide revenue estimate. For example, we just provided another \$60 million to the Council and the Mayor. Now, if similar amount that is provided to the Council and the Mayor after the budget, we will have to, in the normal circumstances, come here for supplemental appropriation. But—

Ms. NORTON. Even though it is already in your surplus?

Mr. GANDHI. Yes. Anything that—

Ms. NORTON. Up to 6 percent you can draw that money down—

Mr. GANDHI. Right.

Ms. NORTON [continuing]. For purposes as they arise in the city?

Mr. GANDHI. Right. Yes.

Ms. NORTON. I appreciate your patience, Mr. Chairman. Some of this I am learning for the first time. The innards of a city government are really quite their own road map. If I am learning it for the first time, I know some of it must be astonishing to you. I ap-

preciate the time you have given me to lay some of these matters on the record.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. Marchant, did you have anything else?

Mr. MARCHANT. Yes. I have just got a couple of questions.

Your fund balance number, does the Council have a statutory requirement for the percentage of operation that number is dictated by, or is it dictated purely by Congress?

Mr. GANDHI. The Congress has dictated 6 percent off of a budget to be in our contingency and emergency cash reserves. In addition, we also have a large amount of money in our escrow for real property taxes to make sure that we will have enough money to pay for our debt services. Counsel and the Mayor also provide some reserves for, for example, affordable housing reserve. We put that money aside also.

So every dollar in that reserve is earmarked for a given purpose, and half of that is basically congressionally mandated and the other half is Council and Mayor earmarking.

Mr. MARCHANT. And, again, I think some of these questions I have are for informational purposes more than anything else. When the Federal Government wants to, are there instances where an ordinance that you might pass would, in the view of the Federal Government, impede something it might want to do, such as a traffic ordinance, changing a street from a two-way to a one-way, cab fees, permit fees? Are there day-to-day ordinances that the city adopts that don't have the importance that maybe a crime issue would have that you feel are for legitimate things that Congress has reserved the right to review before it ends up impacting?

Mr. GANDHI. I would turn to the lawyer to speak about that, but our Mayor in his testimony talks about alley closing and closing even an alley would require ultimately congressional oversight, even though there is no national interest involved in it.

But let me defer to Mr. Flowers on this matter.

Mr. FLOWERS. Thank you.

Under Section 602(a) of the Home Rule Act we are absolutely prohibited from legislating in certain areas, and Congress, as well, requires the NCPD to review certain actions and the Council, itself, reviews about 300 different types of matters, but we do that on a statute-by-statute basis. It is not a blanket authority.

One other observation about the review period is that it says 30 calendar days and then it goes on to say excluding Saturdays, Sundays, holidays, and certain days, and days of recess. That looks as though it is something that was added as an amendment, because we have that sort of thing all the time where there is this peculiar language in statutes that starts out calendar day but then it goes on to define something other than that. I think that is another area that adds to some of the confusion in terms of the review period.

But we are absolutely prohibited from legislating in anything that would affect Federal functions or property. Of course, we cannot adopt any act that has an adverse—any act that has an adverse fiscal impact will not take effect until its effects are included in a budget and financial plan.

Mr. MARCHANT. Would either of these bills change that?

Mr. FLOWERS. No, they would not.

Mr. MARCHANT. Thank you.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Ms. Norton.

Ms. NORTON. I had just one more question relating to something that this committee has just had to do. Perhaps Mr. Flowers can enlighten me on this one. It has caused some confusion in the District. The school restructuring bill, people came up here and they were very confused about what role Congress had, because it wasn't a layover bill. This bill, I had to introduce the same bill—I could have introduced a different bill, but I would never have done that—that the Mayor had just gotten passed, and it wasn't subject to a layover period.

I don't have to introduce the legislation we have been talking about here this afternoon. I had to introduce that bill as I understood it, and it had a layover period that just expired. Can you explain the difference between most legislation, which is what we have been talking about you pass, temporary, permanent, and the rest of it, and it somehow finally gets done, and a bill which a Member of Congress has to introduce in order for a change to be made such as the school restructuring and why that is so and why the different layover period and what that involved?

Mr. FLOWERS. The school reform bill, the Public Education Reform Amendment Act, involved an amendment to the District's Charter. Any Charter change requires either a Charter referendum or an act of Congress. There have been 44 changes to the District's Charter, and only two have been initiated by the Charter amendment process. I think that demonstrates that there has been some cooperation or there is—

Ms. NORTON. What do you mean the Charter amendment process?

Mr. FLOWERS. The Charter amendment process requires an act of the Council and then is put to a vote, the act is put to a vote by the people. It is a rarely used process and what happened in this particular instance is that there was a Charter amendment in 2000 that essentially did the same thing, and that is one reason why the Council determined that there was no need for there to be another Charter amendment, to go through that cumbersome process. It would cost \$1 million to hold an election for something that the Council actually could have done by ordinary legislation in terms of changing the composition of the Board, but this gives the Council much more flexibility in terms of moving forward. But it was absolutely something the Council could not do because it was an amendment to the Charter.

Ms. NORTON. So it is an amendment to the Charter, like the Constitution, and then it takes, what, 30 days?

Mr. FLOWERS. Thirty-five days. Well, it is 35 days for a Charter amendment. A slightly different review period. It used to require positive congressional enactment, but—

Ms. NORTON. So even after the President signed the bill, there was still a period of time during which it could not go into effect?

Mr. FLOWERS. Well, that is because there were two separate pieces of legislation. There is the Charter amendment, and then there is the local law, which will become effective June 12th. A judge has just made a ruling today on whether or not there will

be a referendum process, but I have not looked at my Blackberry to see what the result was.

Ms. NORTON. What you have just testified to is that what you and I, Mr. Chairman, rapidly got through this House with no lay-over period, signed by the President, still leaves the law that was passed by the District of Columbia on the very same subject, and that law is not final until some time later. I think it is probably fair to say we have trumped that law by passing the very same law up here, but here you have a dual process going on at virtually the same time, not even just a layover process.

Mr. FLOWERS. Yes, that is correct. And June 12th, for the record, will be a Tuesday, because a District law can never become effective on a Monday. That is another one of the arcane rules that we live with.

Ms. NORTON. That is not arcane, because Congress does that for its own convenience and we usually weren't here on Tuesday. Now we are here 5 days a week.

Thank you, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Well, thank you very much.

Gentlemen, thank you very much. We appreciate your indulgence and we certainly appreciate your testimony. Thank you.

It is committee policy that all witnesses are sworn in, so please rise and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS OF ILLINOIS. The record will show that each witness answered in the affirmative.

Your entire statement will be entered into the record. Of course, the green light indicates that you have 5 minutes. The yellow lights means your time is running down, and you have 1 minute left to complete your statement. And the red light means that the time is up.

Perhaps we will just go ahead and proceed and begin with Mr. Smith.

STATEMENTS OF WALTER SMITH, EXECUTIVE DIRECTOR, D.C. APPLESEED CENTER FOR LAW AND JUSTICE, INC.; AND THEODORE TRABUE, EXECUTIVE DIRECTOR, DISTRICT ECONOMICS EMPOWERMENT COALITION

STATEMENT OF WALTER SMITH

Mr. SMITH. Thank you very much.

For the record, I am Walter Smith, executive director of the D.C. Appleseed Center here in Washington, DC. We are a nonprofit, public interest organization that addresses issues of importance to the District and to its citizens. We have been involved in the voting rights effort for some time, working with Ms. Norton and Congressman Davis and others, and, for similar reasons that we have supported that effort, we support these two bills, as well. Together, these are steps toward affording District residents the self-government that we think they are entitled to and which will make their local government more efficient in serving the people who live and work and visit here.

I am going to add only two reasons, reasons that have not been mentioned up until now, why we think these two bills are a good idea, because I don't want to repeat what others have said.

The first reason is that we think these bills are consistent with and in furtherance of the framers' own intent when they adopted the District clause. We also think that these bills are consistent with and in furtherance of what the Congress, itself, said when it adopted the Home Rule Act. Let me just elaborate on each of those points quickly.

The District clause, which has been mentioned here many times today, as all of you know, gives the Congress exclusive authority in all cases whatsoever over the District of Columbia. But the purpose of that clause was not intended to give to Congress the need or the authority and responsibility to manage local affairs of District residents.

As James Madison explained in Federalist 43, the District clause grew out of a civil disturbance incident that occurred in Philadelphia near the Continental Congress in 1783, and it disturbed the Members of the Continental Congress that they didn't have the wherewithal to address what some of them referred to as an uprising, and the local State government did not assist them in that regard, so the framers wanted to make very sure that the Federal Government and the national legislature, itself, would not be at the mercy of whatever State government might be in place wherever the national capital would be housed. And for that purpose the framers gave to the Congress exclusive authority over wherever the national capital might happen to be.

Mr. DAVIS OF ILLINOIS. Could I just interrupt you a second and ask Delegate Norton if she would continue while I run and vote.

Ms. NORTON [presiding]. Please continue.

Mr. SMITH. All right.

Here is the key point that Madison made on that issue in Federalist 43. He listed the number of reasons why it was appropriate to give the Congress exclusive authority over the District, and it would in no way prejudice the citizens who happened to live in the District, which became the Nation's capital. This is what he said, among other reasons it would be appropriate, because, "A municipal legislature for local purposes derived from their own suffrages will, of course, be allowed them." So the Father of our Constitution, in explaining the purpose of the District clause giving the Congress exclusive authority, said, But of course with regard to local matters there will be a municipal legislature beholden to the local electorate. These two bills help to further that original purpose of our framers.

I would argue also to you that what the Congress, itself, had in mind when it first adopted the Home Rule Act mirrors this same purpose. Let me just read you from the purpose clause of the Home Rule Act, itself. "The stated purpose is to grant to the inhabitants of the District of Columbia powers of local self-government and, to the greatest extent possible, consistent with the Constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters." That is what the Congress said in the Home Rule Act.

These two bills further that purpose, not only the framers but of the Congress, itself. And for those and the other reasons that have been discussed here this afternoon, D.C. Appleseed supports both those bills.

Ms. NORTON. Thank you very much, Mr. Smith.
Mr. Trabue.

STATEMENT OF THEODORE TRABUE

Mr. TRABUE. Thank you very much, Congresswoman Norton.

My name is Ted Trabue and, for the record, I am the executive director of the District Economic Empowerment Coalition. We are here today, as well, to support both of the bills that are the subject matter of today's hearing.

I have worked in and around the District's legislative process for almost the past three decades. In the late 1970's, shortly after the enactment of Home Rule, I worked for the House District Committee, which served in a similar capacity as the current Committee on Oversight and Government Reform. I also served as the chief of staff to the Honorable Linda Cropp, and as Vice President of Government Affairs at PEPCO, Potomac Electric Power Co.

Throughout my career I have personally witnessed the effect that congressional oversight has had on our city and its citizens, and in my view neither the Congress nor the District government benefit under the current structure. At a minimum, congressional oversight adds a high degree of uncertainty to the District's legislative and budgetary processes.

This leaves me to wonder why a system should continue that adds such little substantive value to either the policymaker or the constituents.

Rather than get into a verbatim discussion of the legislative and budgetary oversight, let me just give you a perspective on what these do in a practical and a daily basis in the operations of government.

As you may know, I am a member of the Board of Education here in the District of Columbia. Let me first speak to the budget autonomy piece.

For years, and as you mentioned in your opening statement, the District's school system has struggled with its finances, in part because I believe the whole budget autonomy, and not knowing when money would come in or if it would come in has hampered the school system's ability to engage with contractors.

I have only been on the School Board for a limited time now, but one of the first things we had to do when I got on the Board of Education was to approve a contract to buy school buses for transportation for children who were in special ed. Well, the first time we put the contract out for bids nobody bid on it. Nobody. This is 25 school buses. This is a multi-million-dollar contract. The second time we put the contract out for bids we only got two bidders. This not only affects the District; this affects the surrounding jurisdictions, the States, as well.

As you well know, buses aren't made here in the District of Columbia. Buses are made in either Virginia, Pennsylvania, Michigan. We are trying to do business with businesses in other States and they don't want to do business with us. And then when we

only get two bids, of course, they are not as competitive as they may have been under normal circumstances, so we probably paid more for those buses than we should have. This doesn't inure to the benefit, clearly, of the citizens of the District of Columbia.

Regarding legislative autonomy, as you just mentioned a couple of moments ago, if you think there was confusion here on the Hill about when the school takeover bill would go into effect, I will tell you there was confusion at the School Board, as well, about when that bill would actually take effect.

What happened was we thought, as members of the Board, that we would have a little more time to actually deliberate and close out our operations, and we found out later on that actually June 12th would be our last official day in business. As a result of that, at last night's meeting all of the School Board members who had anything pending in their offices tried to throw it on to the agenda for last night's meeting. As you well know, that is not the way to operate a deliberative body. It created chaos at last night's meeting.

These are some of the practical effects of this layover.

Finally, I would just say that the Congress and the taxpayers that you represent would not be harmed by the elimination of the congressional review process. The Council's legislative process includes a bill's introduction, committee assignment, a hearing process, markup, reading in the committee of the whole, two legislative readings, and each step maintains its own procedural and notification requirements. Combined, the Congress has a minimum of at least 10 weeks to review and comment on any legislation that it deems to be of interest. And, as with any other State legislature, Congress may affirmatively act to amend or overturn any objectionable laws.

In conclusion, I would like to thank the committee for holding this hearing on these important pieces of legislation and affording me the time to present my views. As a fourth generation Washingtonian, as a lifelong resident of the District of Columbia, I have watched this government grow and mature, and after thirty-plus years of congressional oversight, I believe it is time to take off the training wheels and let the District exercise the right which it has earned—I underline the word earned—to legislate and enact budgets independent of Federal oversight.

We are no longer in the dark days of the late 1970's, early 1980's, when Marion Barry first came in and asked for an audit of the District's budget and the books were unauditible. We are no longer in the days when I was working as Linda Cropp's chief of staff and the District couldn't pay its vendors and it couldn't pay its employees. I was one of those employees who had to take, I think, 10 days without pay that year. I mean, those were bad times. We are no longer there. This government, as our chief financial officer, our Mayor, our chairman of the Council have testified, has taken significant strides to right itself and has earned, in my view, the right to legislative and budget autonomy.

Thank you, Congresswoman Norton. I know my time is over. Thank you very much.

Ms. NORTON. Thank you very much, Mr. Trabue.

I have questions for both of you. I must say that the administration in which you served with Chairman Cropp and with Mayor Williams deserves the credit for what we are discussing here today. That just ought to be said for the record, as well.

Mr. TRABUE. Thank you.

Ms. NORTON. Mr. Smith, you served in the administration, as well, as corporation counsel; is that right? Correct?

Mr. SMITH. Yes, ma'am.

Ms. NORTON. Which we now pretentiously call Attorney General, but I like it.

I appreciated your testimony, and your taking us back to original intent. I have a question for you to solidify in my mind the meaning of your testimony. For much of the time of the debates, the framers didn't know where the capital would be; is that not true?

Mr. SMITH. That is correct.

Ms. NORTON. So the capital could have been in New York or Philadelphia or Richmond or any which place; isn't that correct?

Mr. SMITH. That is correct.

Ms. NORTON. And is it not inconceivable that, if the capital had been in a State like that, that it never would have crossed Congress' mind not only to protect itself, as it did by making us independent, but never would have crossed its mind to deprive that local capital for the United States of self-government?

Mr. SMITH. I believe that is right, too.

Ms. NORTON. It is important to lay on the record they didn't just start out saying—that is why what Mr. Smith testified to is so important. They had an accident. They were afraid that maybe the State wouldn't come to their aid. Well, who comes to the aid now of the Congress of the United States if there is a disturbance in the District of Columbia, Mr. Smith?

Mr. SMITH. Well, there is an irony there, Congresswoman. It is the District.

Ms. NORTON. The Congress of the United States has no police force. The Federal Government has no police force here. We have the Capitol Police, which pales in numbers beside the D.C. Police. We have the Federal Protective Service. They are in Federal buildings here and across the United States. But in the event of a disturbance, you can always call in the National Guard, but then the President has to Federalize it or has to himself call in the National Guard and they have to get here and get their gear on. So if the Congress needs help now, it goes to the Home Rule government of the District of Columbia.

Mr. SMITH. It does.

Ms. NORTON. I think we are carrying out the framers' intent, as you said. The Philadelphia local government did not assist. We do nothing but assist. We stop the traffic so the President or important officials can go through. When there is any disturbance, the Capitol Police is not left up here by itself. In a moment the police of the District of Columbia are here. What you say about the framers is very important, because they piled in on the framers every wish of Members of Congress who wished to keep us under their thumb.

Did you have something you wanted to say?

Mr. SMITH. There are only three paragraphs in Madison's 43 you need to read, and it is all there that explains what the purpose of the District clause was, and it was certainly not for the Congress to micro manage local affairs. Madison expected that to be handled by a local municipal government elected by people who lived in the capital, which, as you say, they didn't know where it was going to be, but that was his vision.

Ms. NORTON. In fact, the framers had acute distrust of the Federal Government and trusted only local governments to do what had to be done. We started out with the Confederate arrangement and the Continental Congress and all of that. It didn't work, so they were driven to the notion of a Federal Government. Even then, they gave the Federal Government very little power. The only power that it has taken is the power over the District. The Federal Government didn't get any power until the New Deal, and it took an economic crisis to get that power. So the intent of the framers, which is often quoted against us, is important, and important that you laid it on the record.

I do want to, before I ask Mr. Trabue just a couple of questions, I do want to say that I am informed that the court has ruled against the appeal on the referendum, and it essentially upheld the Board of Elections, which recently reversed itself on whether there should be a referendum.

Would you lay out for us more why there were only—look, if anybody wants to buy 25 buses, I think that is what people wait for. You are not just trying to buy some buses because one has gone off the road.

Mr. TRABUE. No.

Ms. NORTON. Restocking buses. Would you please make us understand why people wouldn't rush forward to bid competitively with several bus manufacturers wanting to do that, wanting to take that order?

Mr. TRABUE. As I could best get an explanation from the people who run the procurement offers over at DCPS, because I was astounded by the fact that we put the bids out and no one bid. No one bid on the first round in a competitive process. And then we had to revise the bids, and we only received two. I actually took it upon myself to call a couple of bus companies and say, why is there the reluctance to do business with the District of Columbia Board of Education, and it was a question of questioning whether or not they would be paid. The school system, not knowing its calendar year or its fiscal year differs from the regular cities. There was turmoil about who would be in control. They didn't know whether they would be contracting with someone with whom they could actually enter a valid contract.

So all of these things kind of were on the table, and, as I said, at the end of the day we received two bids.

Ms. NORTON. Yes, and we are talking about a city that has a billion dollars surplus but has such a cumbersome government that maybe you'd rather not do business with it.

My final question, Mr. Trabue, is I note your service, of course, in the government, your distinguished service in the government, but you were also a Vice President of PEPCO. Would you give us an opinion as to how the local and regional business community

might view legislative and budget autonomy for the District of Columbia?

Mr. TRABUE. As you may know, Congresswoman Norton, I also serve as one of the members of the Board of Directors of the D.C. Chamber of Commerce. I wouldn't pretend to speak for the Chamber today, but clearly the Chamber has been supportive of the District's efforts to move forward in this regard. I mean, clearly we view this as something which makes the District more business friendly, more of an understandable place in which—not only understandable, predictable. A predictable place.

Businesses desire predictability. It is one of the things that is very, very important for them. If you are trying to do business, you need to be assured of your cash-flow, and particularly for a small business. And many of the businesses within the Chamber of Commerce are small businesses. Cash flow is very important to them, so you need to know that you will be able to receive your money in a predictable amount of time.

Say you have engaged in a contract to do business with the District. You have started to do business with them. Let's say, instead of on October 1st the District is getting its money, it gets held up for whatever reason, as we know those reasons have existed over the years, fewer and fewer, but they have over the years.

I mean, a small business not getting paid for a couple of months can put it under, quite frankly. Some of these people don't have the ability to go out and borrow at the same rate or at the same favorable rates at which the District can borrow. So for small businesses these are matters of great concern to them and they would support this effort that you have engaged in.

Ms. NORTON. Well, we know for sure that our business community has paid a price for the inefficiency of the D.C. government. To the extent that this is a significant part of that inefficiency, we do need to take that off of our taxpayers, including our business taxpayers.

I just want to thank both of you for your testimony. I want to thank both of you for not only your distinguished service—and both of you served while I was here and so I know whereof I speak—your very distinguished service in the government, but I want to thank you for continuing to be of service to the D.C. government in your respective organizations that have deep affection not only from me but from the residents of the District of Columbia, continuing to be of service to the city.

I thank you very much for this testimony, and this hearing is adjourned.

Mr. SMITH. Thank you.

Mr. TRABUE. Thank you.

[Whereupon, at 5 p.m., the subcommittee was adjourned.]