

4-1-2010

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Crystal E. Romeo

Kennesaw State University, cromeo@kennesaw.edu

Follow this and additional works at: <http://digitalcommons.kennesaw.edu/etd>



Part of the [Public Administration Commons](#)

Recommended Citation

Romeo, Crystal E., "A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil" (2010). *Dissertations, Theses and Capstone Projects*. Paper 228.

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Crystal E. Romeo

A Practicum Paper
Submitted in Partial Fulfillment of the Requirement for the

Master of Public Administration

Kennesaw State University
May 2010

Department of Political Science and International Affairs

Master of Public Administration Program

College of Humanities & Social Sciences

Kennesaw State University

Kennesaw, Georgia

Certificate of Approval

This is to certify that the Capstone Project of

Crystal E. Romeo

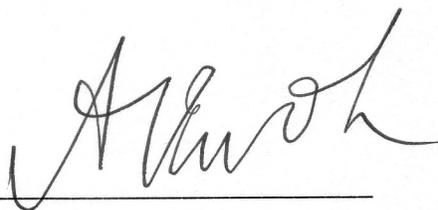
Has been approved by the Program Director

For the capstone requirement for the Master of Public Administration

Professional exercise in the Department of Political Science and International Affairs

At the May 2010 graduation

Capstone Director:



A handwritten signature in black ink, appearing to read 'A. H. H. H.', is written above a solid horizontal line.

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Executive Summary

The intergovernmental relationship between the federal district and the national government has been given little significance in the subject of intergovernmental relations. This purpose of this paper is to compare the intergovernmental relationship between two federal districts in the United States and Brazil. The paper begins with a definition of federalism and its key characteristics along with an explanation of the fundamental changes in the system. This is followed by a discussion of the concepts of intergovernmental relations as defined by Deil S. Wright. The models of intergovernmental relations are used to explain the relationship between the federal districts and the national government by analyzing their legislative, administrative, and fiscal decentralization. The study proposes a model of an intergovernmental relationship between the District of Columbia and the United States Congress, and assesses the autonomy levels of both the federal districts of Brazil and the United States.

Intergovernmental relation is an area of political science concerned with the analysis of relationship between the different levels of government. In the United States, the federal and state governments receive their respective authority from the Constitution. Also, local governments are the creatures of their states, and therefore receive their autonomy from their state constitutions. In Brazil, however, the federal, state, and local governments obtain their respective autonomy from the national constitution. In view of this, Brasilia, the federal district of Brazil, is recognized as a state; whereas, in the United States, the District of Columbia is seen as a local government under the full control of the

U.S. Congress. Comparatively, Brasilia has more autonomy than the District of Columbia, and this is evident in the congressional repudiation of legislation passed by the D.C. Council. The existing relationship between the District of Columbia and the United States Congress is depicted as a dominant authoritative model because the powers of Congress influences every decision made within the District.

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Table of Contents

Executive Summary	i
Illustrations	iv
Acknowledgments.....	v
Introduction.....	1
Background.....	4
Literature Review.....	15
Methodology.....	28
Discussion.....	30
References.....	40
Appendices.....	49
Appendix A.....	49
Appendix B.....	53
Appendix C	60

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Illustrations

Table 1.	The Distribution of Powers and Functions	34
Figure 1.	Model of Intergovernmental Relations between the District of Columbia and Congress	35
Figure 2.	Proposed Model of the Intergovernmental Relations between the Congress and the District of Columbia	37

Acknowledgments

...but those who hope in the Lord will renew their strength. They will soar on wings like eagles; they will run and not grow weary, they will walk and not faint. – Isaiah 40:31

I would like to express my sincere gratitude to Dr. Andrew Ewoh, Director of the MPA Program. His knowledge and mentorship has been of great value to me. His understanding, encouragement, and personal guidance has provided the support necessary to complete this paper.

I am deeply grateful to the faculty of the MPA Program, especially those that I have had the opportunity to learn under. Drs. Barbara Neuby, Sungjoo Choi, Chenaz Seelarbokus, Ulf Zimmerman, David Shock, Beth Giddens and Alan LeBaron.

I owe my loving thanks to Chistopher Upperman and my parents Debrah and Kenrick Romeo for putting up with my undying love of education. My special gratitude is due to the Upperman Family, my Destiny Small Group, and my siblings Jason, Traceyann, Curt, and Rossi for their loving support. I owe my sincere gratitude to Sharon Mills for her essential assistance. Thank you Sharon!

A Comparative Study of Intergovernmental Relations of two Federal Districts: The Case of the U.S. District of Columbia and Brasília, Brazil

Introduction

Few scholars consider the interaction between the District of Columbia and Congress when discussing or assessing federalism and intergovernmental relations in the United States of America. Due to the absence of discussion, the purpose of this paper is to compare the intergovernmental relations of two federal districts in the United States and Brazil. A policy assessment—scientific assessment of the policy documents—for both districts are matched with historical occurrences that exhibit traits in an aim to solidify an illustration for the relationship between the District of Columbia and the United States Congress.

In the United States, the subject of intergovernmental relations is the study of the interaction between national and subnational governments, or, more specifically an analysis of the interaction, attitudes, and behavior between the national, state, and local echelons of government with the aim of expounding upon the respective roles, responsibilities, and influences of each tier of government (O'Toole, 2007; Rosenthal and Hoefler, 1989). Within this arena of study, there has been successful clarification on the outcome, effect, and reaction to implemented policies and legislation in each tier of government. The 10th Amendment of the U.S. Constitution confers upon the states, “those powers not delegated to the federal government in the Constitution nor prohibited by the same,” Dillon’s rule regarding the authority of local governments has verified that a local government is a creature of the state, and possesses no power unless it is conferred by the state (Wright, 2007, 73).

The dynamic between different tiers of government is rooted in the separation of powers conceived by the federal system—federalism. The possible tyranny of the majority is a serious

concern for any nation, thus federalism brings forth a stable nation and protects individuals against political authorities that constrain state sovereignty (Watts, 1998). The premise of federalism supports the idea of a decentralized government that allocates to every tier of government its own areas to govern. Decentralization is also a means to attain purported goals (Fleurke and Willemese, 2004). Autonomy is the result from governments operating within their own prerogatives and is the aim of federalism by way of decentralization. Autonomy—the right to self-govern within the range of power afforded—is very important to subnational governments. The most powerful act of autonomy for a subnational government, aside from its constitutional rights, is the ability to collect its own revenues from localities such as income and property tax (Shock, 2009). In addition, autonomy gives subnational governments the freedom to avail matters most important to its constituents.

The system of governance in the District of Columbia could be considered as idiosyncratic in contrast to the archetypal form of hierarchy in the United States government. The United States government is stratified into 3 levels—federal, state, and local. Contrary to the common hierarchy of the federal system, in the District of Columbia, the hierarchy is best explained as a federal-local relationship. The relationship between the District of Columbia and Congress, to some, may be deemed the only example of a federal-local relationship in the United States of America. Some may agree that other U.S. territories, such as Puerto Rico, the U.S. Virgin Islands, and Guam, have more autonomy than the District of Columbia. However, the exclusive relationship between the District of Columbia and the federal government has not fostered a relationship of benevolence for the residents of the District. Instead, the District has tackled adverse quandaries with little legislative support from Congress, causing the District to be in a position of doing little to ameliorate problems.

In the past, critics have labeled the District's government as one of the worst governments in the nation (Niskanen, 1991). This criticism is based on the above average expenditures per resident, the low performance of public schools, and the high rate of murder and infant mortality, along with other measures of social pathology. However, most critics trivialize the difficulties the District of Columbia encounters with its budget, education, and legislation—all which can be attributed to its relationship with Congress. Although some of these same disparities are prevalent today, it is important to understand the extent of the dictatorship-like oversight the District has encountered while attempting to rectify fiscal issues. It is also important to clearly understand how little home rule the District is granted in comparison to other federal districts such as Mexico City, Abuja, and Brasília; therefore, limiting its ability to cope.

Brasília, established as Brazil's Federal District in 1960, is also a unique district. In 1988, Brazil adopted a new constitution known today as the Constitution of the Federative Republic of Brazil of 1988. The country's 26 states and one federal district are recognized equally with the same powers of governance (Afonso and de Mello 2000, 2). Empowered with equal recognition under the constitution of 1988, every subordinate government operates under the same quantity of home rule. The autonomy that Brasília has as a subnational government allows the government to respond to matters within its jurisdiction without any intervention from the national government.

The subject of intergovernmental relations has primarily focused on the federal-state and state-local relationships. Consequently, there is a lack of literature acknowledging and analyzing the federal-federal district or federal-local relationship. This paper begins with an exploration of the subject of intergovernmental relations and the markers that define the different forms of

vertical intergovernmental relationships. The overall purpose of this paper is to investigate and assess the relationship between the District of Columbia and the United States Congress and Brasília and Brazil's national government.

The evaluated level of autonomy for both federal districts is then exhibited in a table that evaluates the level of federalist qualities based on the privileges given to the District of Columbia and that of Brasília through a review of the United States Constitution and the Constitution of the Federative Republic of Brazil of 1988. Using previously identified models of intergovernmental relationships and a comparative analysis of the federal similarities of the United States and Brazil; the outcomes of this study are a model of the intergovernmental relationship between the District Columbia and Congress, and a comparative analysis of a home rule in Washington D.C. and Brasília.

Background

Overview of the Federations of Brazil and the United States of America

The United States of America, the first modern federation, adopted the U.S. Constitution in 1789 (Kennedy et al, 2000). Today, the United States consists of 50 states, one federal district, 6 territories, and 448 Native American domestic dependent nations (U.S. Department of Commerce, 2000). As a decentralized nation, the distribution of power is separated between the national and subnational governments as listed in the Constitution.

Since 1988, federalism has been a part of the Brazilian political system; however, historically democratic practices were not ubiquitous (Luna and Klein, 2006, 28). It was not until the early 1980s that democracy emerged and became a part of national politics in Brazil (Luna Klein, 2006, 28). Soon after the implementation of the new constitution, decentralization of

many types became synonymous with the Brazilian political system. Therefore, over the past quarter of a century, Brazil has established a “vibrant and functioning democratic system free from military tutelage and populist politicians” (Luna and Klein, 2006, 1).

At one point in history, the federal capitals of both the United States and Brazil had no vote in neither local nor national elections. In addition, the residents of both were not allowed to elect representatives to the national Congress (Rowat, 1986). Both governments of the United States and Brazil are systems that utilize multiple separations of power that combine constituent units and have a general government; all governed by a national constitution. Each tier of the government possesses powers that are delegated by the constitution and are empowered to deal directly with citizens. Also, each country has national and subnational governments that are able to exercise legislative, administrative, and taxing powers, as elected by citizens. These characteristics deem both countries capable of subnational comparisons for the purpose of this paper.

Changes in the Federal Character of the U.S. Political System

Before moving forward with the application of decentralization characteristics to assess intergovernmental relationships, it may be helpful to understand the evolution of federalism and the widely accepted intergovernmental theories that draw on the elements of decentralization. Linking the hierarchical nature of federalism—particularly the federal system in the United States—to the relationships that develop between each tier of government aids in the delineation of the atypical federal-federal district relationship.

The English philosopher Thomas Hobbes supported the institution of government but opposed a federal system that utilized the division of power (O’Toole, 2007). James Madison,

one of the Founding Fathers of the United States Constitution, considered the works of Hobbes and decided that larger republics in lieu of small ones are better at preventing an internal tyranny of the majority (Kincaid, 2004; O'Toole, 2007; Shock, 2009). However, others note that the U.S. Constitution is “neither a national nor a federal Constitution but a mix of both” (Hail and Lange, 2010, 4). Nonetheless, most support that federalism is essential to avoiding a “tyranny of the majority” where the rights and privileges of the minority group are voted away by the majority. Therefore, the Framers of the U.S. Constitution developed a system that allowed states to retain their status as independent governmental entities with corresponding self-governing jurisdictions and autonomy (O'Toole, 2007; Shock, 2009). Thus, the U.S. Constitution was constructed to “minimize instability, injustice, and confusion,” so a top-level federal government that shared responsibilities with the states was established (O'Toole, 2007, 4).

Federalism is the term used to describe the relationship between the federal government and the states (Shock, 2009). It seeks to preserve liberty by constitutionally divvying power into systems of authority between central and regional governments (O'Toole, 2007; Peterson, 1995; Shock 2009). When assessing decentralization, many scholars repudiated federalism as a distribution of authority between governments, and redefined the term as a “process through which authority is distributed and redistributed” (Rodden, 2004, 489). Despite the varying views, the division of powers between the federal and state governments is outlined in the U.S. Constitution; however, the Constitution does not specify the exact powers each level of government retains (Shock, 2009).

In a federal political system, the following characteristics must be present: (1) the legal status of each tier of government has to be guaranteed by a national constitution; (2) each tier of government is responsible for making and implementing policies in important areas; (3) each tier

of government must have separate political officials, elections, and law making capabilities; (4) each tier of government must have its own bureaucracy; and (5) characteristics of a federal political system at all levels of government where each tier has individual fiscal autonomy in taxing and spending must be present (Brzinski, Lancaster, and Tuschhoff, 1999; O’Toole, 2007).

The different models of federalism can be used to explain the national-sub-national intergovernmental relationship. The first model, dual federalism, began when the U.S. Constitution was enacted. During this era, 1789 to 1933, the United States held a central focus on agriculture, and citizens did not look to the government for much assistance. At the local level, there was an unconventional dynamic between governance, politics, and commerce; citizens also rarely depended on the city government for decisions that mattered most (Rae, 2003; Zimmermann, 2010). The local citizenry viewed good business as good government and often business leaders were recruited to aid in the management of city government, thus, producing a business-like regime of governance subnationally (Rae, 2003; Zimmermann, 2010).

Through the progression of time and the occurrence of the Great Depression, the desire to develop and strengthen the infrastructure of the nation evolved. That desire led to the rise of dual federalism represented by a system where two different levels of government operated independently within its separate jurisdiction without relying on the other for assistance or authorization, each in its own sphere sovereign (Leach, 1970; Rosenthal and Hoefler, 1989; O’Toole, 2007; Shock 2009). Alternative views of dual federalism are not as clear, but support for the term as an “ambiguous overlap of responsibilities within the two levels of government” is acknowledged (O’Toole, 2007, 6). However, in a genuine dual system:

Congress must possess only enumerated powers and may employ those powers to promote only a few purposes. Within their respective spheres, Congress and the states are sovereign and equal. Neither Congress nor a state legislature may nullify an act of the other or employ coercive powers against the other plane.

Changes in the power distribution between the two planes of government can be accomplished only by constitutional amendments. Inter-plane relations are minimal as each Congress and each state legislature operates autonomously by employing its respective enumerated or reserved powers. Congress and a state legislature each possess the power to tax and borrow funds (Zimmerman, 2001, 18).

The theory of a genuine dual system was developed from the *Chisholm v. Georgia* (1793) and *Abelman v. Booht* (1859) Supreme Court cases. As a result, dual federalism is valid because Congress possesses a number of autonomous powers that does not safeguard the states from formal or informal congressional encroachment (Super, 2005).

During the epoch of dual federalism, the U.S. Congress supported the clause that the federal government can participate in acts that are not directly declared in the Constitution; however, the actions must be directly linked to the enumerated powers. Overall, during the era of dual federalism there were three apparent states. The rivalistic mercantilism state, where the “behavior of the federal system conformed closely to the juridical model of dual federalism” (Scheiber, 2007, 68). The transitional centralization state had a “significant centralization of real power” (Scheiber, 2007, 68). And, the third is the accelerating centralization state. The accelerating centralization state has “successive federal laws that advanced national regulation, and the Supreme Court continued to censor state legislation with the heavy hand” (Scheiber, 2007, 68).

Unlike dual federalism that has clear-cut layers of responsibility, the second model, cooperative federalism refers to a federal system where the layers of responsibility are intertwined. In the cooperative federalism model, there are apparent “systems of sharing, ranging from federal-state agreements covering specific programs to informal contacts on a regular basis for the sharing of information and experience” (Zimmerman, 2001, 18).

Cooperative federalism, was noticeable in the U.S. political system from 1933 to the 1960s. Cooperative federalism was ushered in by the collapse of the stock market that later led to a time where banks lost most of their capital. Then, the Great Depression began and the Franklin D. Roosevelt Administration implemented a series of New Deal programs (Scheiber, 1980; Shock, 2009). These New Deal programs regulated the stock market and created welfare, Social Security, and Medicare benefits, to name a few. The states had no choice but to cooperate with the decisions of the federal government once the New Deal programs were enacted (Shock, 2009). These changes along with others such as the War on Poverty, enacted by President Lyndon B. Johnson, required the transfer of federal funding to the states and cooperation between both levels of government to accomplish goals (O'Toole, 2007; Shock, 2009; Staten 1993). Furthermore, the emergence of cooperative federalism reconstructed intergovernmental relations in the United States. In a clear cooperative national-state system:

Each plane of government possesses certain autonomous powers that may be exercised cooperatively, with such cooperation initiated by either plane. One plane of government does not coerce the other plane of government. The roles of Congress in terms of national-state relations are facilitating and leadership ones. Congress uses its power to regulate interstate commerce to assist states by prohibiting use of such commerce in violation of state laws. And, cooperation is negotiated. (Zimmerman, 2001, 20)

Beginning in the 1960s, the centralized, regulatory, and cooperative federalism models were utilized. This phase of federalism transformed governance by bringing forth great changes. During this era, segregation was abolished due to the Supreme Court's decision in *Brown v. Board of Education of 1954*. In fact, the *Civil Rights Act of 1964* changed the relationship between the federal and state governments, and provoked the federal government to begin using coercive means to garner the cooperation of the states—paving the way for the rise of fiscal federalism. Under fiscal federalism, the third intergovernmental relationship, the federal

government provided funding to the states to address specific needs such as repairing and building bridges.

Intertwined with fiscal federalism is the fourth philosophy of “New Federalism” that arose during the administration of President Ronald Reagan (Wissert, Stenberg, and Colez, 2009; Brown 1982; Caraley and Schlusel 1986). The period of new federalism, from 1980 to 1995, contains significant acts of decentralization and fiscal reduction with an increase in federal sanctions, mandates, and preemptions from Congress. Some of the most important intergovernmental events of this era were, the ending of the General Revenue Sharing Program and the *Garcia v San Antonio* (1976) Supreme Court decision that applied the Fair Labor Standards Act to civil service employees (Wissert, Stenberg, and Colez, 2009).

Although some note that coercive federalism was present prior to the 1990s, coercive federalism is most apparent during the George H. Bush Presidency (Cho and Wright 2001; Kincaid 1990). During the Bush, era there was a centralizing effect on the United States federal system. With coercive federalism, intergovernmental regulations can oscillate from direct orders to indirect actions that force change at the subnational level (Posner, 2007). The Unfunded Mandate Reform Act of 1995 catapulted the coercive era leading to the nationalization and centralization of education policy, welfare reform, the administration of elections, tax policy, and the establishment of national standards on homeland security (Posner, 2007).

Federalism and intergovernmental relations in the United States has morphed over the course of time allowing scholars to forge descriptors for theories pertaining to the relationships between governments that will be used in this study. Although these interpretations apply to the federal-state relationship, the chronicled attributes are necessary for the author’s application in the explaining the relationship between Congress and the District of Columbia.

The Effect of Decentralization and Centralization on Intergovernmental Relations

The ever-present dichotomy between centralization and decentralization is a perplexing issue ensuing the question of whether increasing the power of a central government is best for its citizens. Notwithstanding, the issue of centralization versus decentralization is more a question of “proportion” than any other concern (Shafritz, Ott, and Jang, 2005, 55). In order to define both terms as it applies to federalism, *everything that goes toward increasing the importance of the subnational government’s role is decentralization, whereas, everything that goes toward decreasing the subnational government’s role is centralization* (Shafritz, Ott, and Jang, 2005; Chapman 1973).

Central government’s decisions must coincide with the demands of the subnational units; this is a supportive idea behind federalism (Rodden, 2004). Rodden has found that federalism is positively correlated with measures of expenditure, revenue, borrowing, policy, and political decentralization. Federalism heightens the growth of government because new tiers, resources, and responsibilities will be required.

Decentralization may pose a risk to policies, due to its ability to engender complications with the allocation of resources, efficiency, and efficacy (Prud’homme, 1995). Decentralization is often viewed as a shift of authority towards subnational governments and away from the national government (Peterson 1997; Rodden, 2004). The decision by a national government to increase the power of subnational governments is very significant. However, a shift in sovereignty has major policy implications not only for who governs, but for whom in the system (or any system).

The reasons and explanations for decentralization can be broadly categorized as relating to political (federalism, democracy, and political power), or economic factors such as fiscal relationships and the efficiency of federal political systems (Escobar-Lemmon, 2001). Recent studies have found that decentralization and federalism are both associated with higher levels of perceived corruption, larger government, macroeconomic instability, and under some conditions, lower growth (Rodden, 2004). Moreover, many still agree that decentralization brings the government closer to its constituents (Peterson 1997; Stepan 2000). However, it is only a framework that requires the incorporation of policies that encourage constituent participation (Peterson 2000).

Centralization—the restriction of fiscal autonomy to a national or superior government—can occur through conditional grants, regulations governing subnational taxation, and through formal limitations on subnational borrowing (Rodden, 2004). These forms of fiscal conditions restrict budgetary autonomy and positively correlates with measures of expenditure and revenue decentralization; therefore, they are negatively correlated with transfer-dependence (Rodden, 2004). Additionally, “the erosion of federalism by centralization produces a socially interventionist national government that corrupts society, diminishes freedom, and undermines individual liberty” (Kincaid, 2004, 71).

Policy decentralization limits the legal rights that national government has to override the decisions and policies of subnational levels of government. In fact, total policy decentralization is never recognized, and shared authority is existent because it is rare for central governments to fully cede autonomy to subnational governments (Rodden, 2004).

However, three dimensions of decentralization are palpable and can be identified as administrative, fiscal, and comprehensive. Administrative decentralization in a federal system

transfers administrative powers to deliver services at the subnational level, and adjudicates bureaucratic form to the subnational government (Peterson 1997; González, 2008). Fiscal decentralization relies on the potential of subnational resources to cover expenditures in the subnational budget (González, 2008). Whereas, comprehensive decentralization, in a federal system, includes a “full transfer of responsibilities and executive powers to the democratically elected subnational governments, in addition to the corresponding resources for public services and social programs” (González, 2008).

Dillon’s Rule and Deil S. Wright’s Models of Intergovernmental Relationships

Home rule is the ability of a subnational government to act and make policy in all areas that have not been designated to be of the superior government’s interest through general law, constitutional provisions, initiatives, and referenda. The ability to self-govern for a subnational government is predicated on the power to regulate for the protection of the public health, safety, morals, and welfare, along with the authority to license, to tax, and to incur debt (Shock, 2004). The home-rule approach of governance serves to increase local autonomy and flexibility (Stephens and Wikstrom, 2007). The possession of fiscal, structural, functional, and personal home rule is very important when attempting to implement approaches that are crucial to subnational governance. Home rule is very important for accurate implementation of the public choice approach of regional governance because, without subnational home rule, the laws of the superior government would dictate all the local decisions.

The Deil Wright’s models that define intergovernmental relationships are based on correspondence and authority patterns. The structure of authority can be defined by characteristics that exhibit hierarchy, bargaining, or autonomy. Whereas, the relationship can be

explained by defining operational factors between each tier of government as independent, dependent, or interdependent. The widely accepted rule for local governments are as follows: “There is no common-law right of self-government; local entities are creatures of the state, subject to creation and abolition, and the unfettered discretion of the state; localities may exercise only those powers expressly granted; and localities are mere tenants at the will of the legislature,” and are used as the common rules for all models (Wright, 2007, 73).

As previously mentioned, in gauging the styles of authority, there are three main types: autonomous, bargaining, and hierarchical. The autonomous authority model has distinct boundaries between the different levels of government and supports the notion that the federal-state layer of government is independent and sovereign. The hierarchical authority model is built on the premise that there is a dependency relationship between the three levels of government. In this model, states and localities are seen as creatures of the national government that is based on a systematic way of studying behavior and assumes that all participants strive to optimize their own behaviors (Wright, 2007). However, the overall terminating decision is one where everyone makes a gain.

The bargaining authority model creates a limit in the dispersal of power, uncertain areas of autonomy, a high degree of interdependence, simultaneous competition and cooperation, bargaining/exchange relationships, and negotiation toward agreements (O’Toole, 2007). The bargaining authority model has the following characteristics: (1) areas of government operation involving national, state, and local units simultaneously; (2) the areas of autonomy or single-jurisdictions are independent and full discretion are comparatively small; and (3) the power and influence available to any one jurisdiction is significantly limited (Wright, 2007, 82).

Finally, the autonomous authority level, views the state and national governments as having sovereign authority with distinct separation of responsibilities, and both levels have peripheral areas of connection.

Literature Review

Washington District of Columbia, U.S.A

Limits on the acquisition of power produces an authority pattern best described as bargaining. The United States Constitution, a document that is the supreme law of the United States of America, allocates powers to both the federal and state governments. The federal government possesses enumerated and implied powers as listed in Article I, Section 8, Clauses 1-18 of the Constitution (Wright, 1988). As stated in the Constitution, Congress has the right to “exercise exclusive legislation in all cases whatsoever, over such District as may, by cessation of particular states, and the acceptance of Congress, become the seat of the government of the United States.” This means that the U.S. Congress has complete and total jurisdiction over the governance of the District of Columbia, leaving the District with limited autonomy.

In 1791, the Washington District of Columbia was established on land ceded by the states of Maryland, and Virginia. Approximately ten years later, on December 1, 1800 the capital of the United States of America was relocated from Philadelphia, Pennsylvania, to the area along the Potomac River that included sections of the states of Maryland, and Virginia; the Virginia portion was retroceded in 1847 (Cityhood for D.C., 2010). It is from the date of its inception that the District began intergovernmental contention with Congress. Constitutional powers bestowed upon Congress restricted the will of the District government and its residents. Per District of

Columbia's restrictions, Congress can control the physical appearance and political landscape of the District (O'Cleireacain, 1997).

From 1820 to 1871, Congress imposed a territorial form of government (Jost, 1996). Throughout these five decades, residents received representation through a single non-voting delegate in Congress (Dodd, 2004; Democracy or Distrust, 1997). In addition, the President of the United States retained the power to appoint the governor, the governor's council, the board of public works, and the board of public health for the District (Jost, 1996). This form of governance was difficult to maintain, therefore, Congress abolished the entire district governance system. As an alternative, the use of a three-commissioner board was adopted (Jost, 1996). The three-commissioner board remained in place for almost a century; while the District residents had no representation in Congress and were not allowed to vote in national elections (Democracy or Distrust, 2007). With no voting right previously established, residents of the District of Columbia petitioned Congress for a municipal charter (District of Columbia Self-Government, 2007). Congress granted a municipal charter that conferred on the District government the authority to establish a Council, and the privileges to levy taxes and appoint a mayor. In 1963, residents in the District of Columbia won the right to vote in the national election (O'Cleireacain, 1997), and to elect a non-voting delegate in the House of Representatives (Dodd, 2004; Democracy or Distrust, 2007, 2043). However, it was not until 1973 that Congress approved the District of Columbia Self-Government and Government Reorganization Act (also known as Home Rule Act, 1973). The Home Rule Act granted the District the right to elect a mayor and members of its own legislative branch, the D.C. Council.

Today, the District's government regulates with the powers granted by Congress. These powers are specifically detailed in the Home Rule Act of 1973. However, there are important

areas for achieving subnational autonomy that Congress has retained control. Congress has granted the District the right to develop a budget but with the stipulation that “such budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress” (Home Rule Act, 1973, 31). In addition, no amount of funds may be “obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by an Act of Congress, and then only according to such Act” (Home Rule Act, 1973, 31). This means that the U.S. Congress has full control over all revenues and expenditures by annually reviewing the entire District government budget.

An act of Congress is required for the District to hire any employee on a full-time or part-time basis (Home Rule Act, 1973). Congress requires the appointment of an auditor who is “responsible for conducting a thorough audit of the accounts and operations of District government” (Home Rule Act, 1973, 41). In addition, the auditor must submit all audit reports to the Congress, the Mayor, and the D.C. Council (Home Rule Act, 1973, 42).

Undoubtedly, the issuance of the Home Rule Act has granted the District more responsibilities than it has seen in its approximately 200-year existence. The retention of constitutional authority by the Senate disengages the purpose of the Act. In addition, to the previously listed, Congress reinstates its retention of constitutional power to amend or repeal any law enforced in the District prior to or after the enactment of the Home Rule Act and any act already passed by the Council (Home Rule Act, 1973). At any time, Congress can reclaim all governance over the District. Until reclamation occurs, Congress explicitly states that the D.C. Council has no authority to:

Impose any tax on property of the United States or any of the states; Lend the public credit for support of any private undertaking; Enact, amend, or repeal any, Act of Congress that concerns the functions or property of the United States; Impose any tax on the whole or any portion of the personal income of any individual not a resident of the

District; Enact any act, resolution, or rule with respect to the organization and jurisdiction of the District of Columbia Courts; that permits the building of any structure within the District in excess of the height limitation contained in section 5 of the Act of June 16, 1947; with respect to the Commission on Mental Health; relating to the U.S. District Court for the District of Columbia; with respect to any provision relating to criminal procedure and crimes and treatment of prisoners; and with respect to the District of Columbia Financial Responsibility and Management Assistance Authority (Home Rule Act, 1973, 65).

Due to the explicit list of privileges withheld from the District's jurisdiction, the United States government supervises many of the governmental and financial functions that occur. Some critics question whether the actions of Congress exemplify democracy or distrust (Democracy or Distrust, 1998, 2046). Although, "democracy is blamed for the problems of the District; structural inequities in the relationship between the District and Congress are a major cause of the District's troubles" (Democracy or Distrust, 2007, 2046).

Washington District of Columbia Current Situations

The District of Columbia's government has attempted to deal with a plethora of issues. Some of those issues are most prevalent in areas of fiscal, educational, and public health matters. The restraining arm of the District of Columbia Home Rule Act of 1973, that require all laws passed by the D.C. Council to undergo Congressional approval has placed Washington D.C. at the clutches of the U.S. Congress (Democracy or Distrust, 1998). Furthermore, the District's residents have continuously campaigned for representation in Congress. Although residents have received representation in the House of Representatives, they have received little support and no approvals for representation in the Senate. There are many points of contention between Congress and the District such as: policing and dealing with exceedingly high murder rates, the elevation of HIV/AIDS cases, and the ever-present abortion issue, not to mention also the racial implications from the disparity in unemployment rates. The responses from Congress have led to

some victories for the District of Columbia; however, many of the approvals from Congress for legislation have proven to arrive at times when the issues have already exacerbated beyond the reach of the rule.

The District's Attempt to Fund Abortion

In 1990, the District government attempted to fund abortion procedures for poor women (Dewar, 1990). Therefore, a provision to fund the policy issue was incorporated into the 1991 fiscal year budget. During the same time, Congress was attempting to gain support for national legislation that would transmit aid to Panama and Nicaragua. Due to pressure from the President and a means to gain support for the national legislation, Congress dropped the language that would allow the district to use local funds to help finance abortions for poor women as a measure to gain congressional support for aid to Panama and Nicaragua (Dewar, 1990).

Adamant about the necessity of the abortion provision, the District reinserted the clause to use local funds to support abortions in its 1995 fiscal year budget (Wheeler, 1994). Nevertheless, in 1995, Congress ended the five-year opposition to the District's use of own-source tax revenue to fund abortions for city residents by issuing a congressional mandate. The congressional mandate became the tightest restriction ever on abortion, making the District the only jurisdiction in the country with a congressional imposed ban (American Health Line, 1995; Wheeler, 1994).

The District's Fight Against HIV/AIDS

Many studies on needle exchange programs have confirmed that providing clean needles to drug users can be an effective means of preventing the spread of HIV/AIDS (Akhter 1994).

The District of Columbia has had exceedingly high rates of intravenous drug user cases since the late 1980s. Understanding the correlation between needle sharing and the spread of disease, the District attempted to deal with its HIV/AIDS epidemic earlier on by using city funds to support a needle exchange program. However, despite the District's efforts, the House of Representatives voted against the initiative (Lipton, 1999). It was not until 2007, when the District was found to have the highest HIV/AIDS rate in the nation, that Congress supported the needle exchange program. This caused a lift in the needle ban restricting and the District was allowed to use its own tax dollars to provide clean needles to drug addicts (Levine and Sheridan, 2007).

District of Columbia Commuter Tax

Commuter taxes are common among many local jurisdictions, most common in New York City until 1999, and in Philadelphia. The idea is to tax the income or wages of individuals who are working in a jurisdiction that they do not live in (Shock, 2009). The commuter tax is usually used by local governments to help pay for public services, alleviating a tax burden on local residents and increasing the attractiveness of living in an area that one works (Jenkins and Bell, 1990). In the early 1990s, the idea of imposing a commuter tax was a subject of discussion among the District's politicians. However, the District's bid to a commuters tax was denied by a federal appeals court with a ruling that, "the imposition of tax without the approval of Congress is unconstitutional" (Weiss, 2005).

Taxation in the District

As stated in the Home Rule Act of 1973, the District of Columbia is not allowed to impose a commuter tax on people that do not live in the District but commute into the District to

work. Adding to the tax limitations, the federal government owns 41 percent of the property in the District (O’Cleireacain, 1997). Due to *McCulloch v. Maryland* case of 1819, that prohibits one government to tax another, the District is not allowed by law to collect property tax from the federal government for all the federal buildings that reside in its jurisdiction. Property tax, a very important source of revenue to local governments, provides autonomy; however, the District’s range of autonomy is abridged. A Government Accountability Office (GAO) study in 2003 identified that the District of Columbia:

Has a structural imbalance, ranging from \$470,000,000 to \$1,100,000,000 annually, and that this imbalance is caused by mandates and legislation, and other requirements imposed by the Federal Government ...The components of the structural deficit are all Federal origin and consist of the following: Locally provided services to the Federal Government; a Federal statute which exempts the District from taxing 66 percent of the income earned in the District; the exemption from taxation of 42 percent of the real property owned by the Federal Government; and the requirement to provide State services, such as special education and mental health, although the District is not a State (U.S. Senate, 2004).

Today, the tax burden of the District is borne by middle class residents. Residents with incomes of \$20,000 to \$60,000 pay 1/10th in property tax, sales, and income taxes in the District (Institute on Taxation and Economic Policy, 2009). In the District, the local income and property taxes are considered a deductible on the federal tax return (DC Fiscal Policy Institute, 2009). This reduces the net tax, and shortens the reach of the state and local taxes.

Budgeting Matters in the District

In the practice of public budgeting many states have contingency funds that are set aside for unforeseen events. In 2000, the United States Congress adopted legislation that required the District to establish an “emergency reserve” of 2 percent of the budget and a “contingency reserve” of 4 percent (Lazere, 2010). In comparison to most state and local budgets where the

contingency fund is 1 to 3 percent of the total budget, the District of Columbia is required to set aside a total of 6 percent of its local revenues (Lee, Johnson, and Joyce, 2004; Lazere, 2010). However, the rules governing the District's contingency and emergency reserves are more restricted than any state contingency fund. In using any funds from these reserves, the District is required to "replenish any withdrawals within a year and complete repayment within two years" (Lazere, 2010, 1). The repayment aspect of the rule can be burdensome on the economic management in the event that an economic upturn is not immediate.

District of Columbia and the Second Amendment

The Second Amendment—the right to keep and bear arms—is generally interpreted as a collective right for states to organize and control militias (Jost, 2007). Due to the increasing number of murders from firearms, the District of Columbia's Firearms Control Regulations Act of 1975 placed a restriction on residents' right to own handguns. The firearms law required "shotguns and rifles to be kept unloaded and disassembled or bound by a trigger lock" (Anonymous, 2008; Jost 1996). In the case, *United States v. Heller*, the Supreme Court ruled against the District's gun law, deeming it unconstitutional (Anonymous, 2008). Although the contrary symbolized a victory for supporters of the Second Amendment, for the District, it became another example of the infringement of home rule, and local legislation that is necessary to deal with issues relevant to local constituents.

Brasília, the Federal District of Brazil

During the mid 18th century, Brazil had two capitals based on the coastal region. Salvador was the military capital and Rio de Janeiro was the capital of Brazil (Evenson,

1973). Prior to the establishment of Brasília, Brazil attempted to move its capital away from the coastal region twice. It was not until 1823 that Jose Bonifacio de Andrada e Silva presented a proposal to the Assembly to relocate the capital of Brazil away from the coast. The proposal was supported by the idea of solidifying the new image of the nation (Holston, 1989). Then in 1833, Father Don Bosco from Turin, Italy, received a paranormal apparition of a new city emerging in the center of Brazil. The location of his visions was between the parallels of 15 degrees and 20 degrees, which is the exact location of Brasília today (Holston, 1889). After a series of commissions and constitutional changes, in 1956, and surveying of the land over eight years, construction of the new Capital began. The selected location of the Federal District was located in 2,245 square miles of a sparsely inhabited plateau from the State of Goias. On April 21, 1960, Brasília was officially inaugurated and it started functioning as the new capital of Brazil (Skidmore, 2010, 143). Lucio Costa drafted the plan for the city while designs of the buildings were done by Oscar Niemeyer (Skidmore, 2010, 143).

The Brazilian Federal District is very peculiar because the District consists of an autonomous territory that is divided into administrative regions. However, Brasília, the federal capital, and the seat of the government have full administrative authority. The other satellite towns, Planaltina, Hyderabad, Sobradinho, Range, Paranoá Brazlândia, Guara, Cruise, Fern, Santa Maria, São Sebastião, Corner of Emas, Riacho Fundo, South Lake, North Lake, Candangolândia, and Bandeirante, all retain some administrative autonomy, but their economic and social viability is dependent on Brasília.

The Federal Republic of Brazil is a democratic state with a presidential system of government. The constitution of the Federal Republic of Brazil of 1988 established three government tiers: the Federal Union, 26 states and the Federal District of Brasília (which has the

powers of both a state and a municipality), and 5,507 municipalities (Kee, 2003, 15). A major purpose of the 1988 constitution was to decentralize tax revenue to provide greater tax resources to subnational governments (Kee, 2003). The president of the republic performs two functions: Head of State and Head of the Federal Government. In accordance with the 1988 national constitution, the federal government acts decisively in the life of the Brazilian people by establishing rules, implementing programs, or rendering services to the population. Brazil's current constitution places the following limitations on the national government:

The Republic may not intervene in the States or in the Federal District, except to: maintain national integrity; fight back a foreign invasion or invasion of one unit of the Federation in another; put an end to a serious jeopardy to public order; guarantee the free exercise of any of the Branches in the units of the Federation; reorganize the finances of a unit of the Federation which: a) suspends payment of a consolidated debt for more than two consecutive years, except in the event of force majeure; b) fails to deliver to the Municipalities tax revenues established in this Constitution, within the periods of time established by law; provide for the enforcement of a federal law, court order, or decision; ensure compliance with the following constitutional principles: a) republican form, representative system, and democratic regime; b) the rights of the individual; c) municipal autonomy; d) rendering of accounts of the direct and indirect government administration (Government of Brazil, 1988).

Therefore, the new constitution gave the District full autonomy, representation in the lower and upper houses of the national Congress, and the rights to elect a governor and legislators. Fiscal decentralization is another benefit that came with the new constitution. States and municipalities gained income from the national government, without a transfer of accountability (Luna and Klein, 2006, 28).

The legislative chamber of the Federal District was created after an intense struggle for political autonomy of the District. Although the Brazilian Constitution of 1988 granted autonomy to the Federal District, for 26 years, the residents could not elect their local representatives. It was not until 1986 that the right for political autonomy was exercised with the election of the first deputies and senators to represent the city in Congress.

The Organic Law of the Federal District explicitly details the legislative powers of Brasília. Article 2 of the Organic Law identifies the Federal District as an indissoluble part of the Federal Republic of Brazil. This Article also espouses the core values that symbolize the preservation of autonomy as a federal unit, full citizenship, the dignity of the human person, social values of work and free enterprise, and political pluralism (Brasília, 2009). In Article 15, an explanation of the duties of the Federal District is fully listed and can be viewed in Appendix A (Articles 23 and 24) as well as Appendix B (Articles 14-17). The powers range from legislative authority in matters of social to economic development.

Brasília Current Situations

During its fifty-year evolution, Brasilia has not been safeguarded from the issues that are correlated with metropolitan sprawl and overpopulation. However, endowed with local autonomy, the Federal District of Brazil has ameliorated and assisted some of its local problems attributable to the level of local autonomy granted by the national constitution. Decisions made at the local level are mostly done without the intrusion or intervention of the national government. Brasília has been able to deal with housing, education, and political problems in a manner that is favorable to and supported by its local constituents.

Home Ownership in Brasília

In Brazil, much of the land is owned by the wealthy. These wealthy landowners in Brazil exude the historical convention that owning large tracts of land equates to prestige. Many of these landowners often times are unaware of the property. During the development of the new capital, the government did not complete the purchase of reserved land that surrounded the

Federal District. As Brasília began to grow, the land surrounding the Federal District began to increase in value. Also, the property became a heightened interest to residents that worked in Brasília and were unable to afford houses directly within Brasília.

Development in these surrounding areas has increased over time. Moreover, land grabbers began doctoring deeds to sell land that they did not own. Many residents purchased the properties and currently live on the land in homes they have worked hard to build and maintain. Recently, the government discovered that a developer selling the properties did not have rights to ownership. However, because of its sovereignty, the government of the Federal District was able to intervene in the matter by filing a case on behalf of the resident that may have their land expropriated by the bona fide owners. Also, the governor of the Federal District, Jose Roberto Arruda, created a government department that will deal with this particular issue by legalizing 350 tracts of land for approximately 50,000 people (Kugel, 2009).

Government Corruption in Federal District's Government

It is widely known and touted by Brazilians that there exists the lack of respect for the law. Brazilians have long held contempt against the law and many political leaders have held this perspective over the course of time (Skidmore, 2010). Therefore, corruption involving political officials and civil service employees are more often praised rather than abhorred. The most current political happening in the Federal District is the arrest of the Governor of Brasília on accusations of corruption. The accusations include bribery, obstruction of justice, and tampering with evidence (Gusmão, 2010). Once the Governor was detained, the Vice-Governor and president of the Legislative Assembly—both successors for the absence of the Governor—resigned (Gusmão, 2010).

Nonetheless, in the midst of political turmoil, the federal government remained at bay. The national government allowed the legislature to amend the Organic Law so that an emergency election could proceed to fill the void in leadership (Câmara Legislativa do Distrito Federal, 2010).

Brasília's Economic Growth

In 2000, many changes in the Federal District's economy occurred. The most notable change was the enactment of an exemption on property tax and urban property tax. This exemption led to an increase in investments to the construction sector that yielded 1 billion reais—approximately 56 million U.S. dollars—in 1999. The construction sector in the Federal District represents 6.9 percent of GDP for the district (Câmara Legislativa do Distrito Federal, 2010). The exemption from property tax and the flourishing construction sector has attracted new businesses in information technology. Today, there is a very visual superseding growth in the emergence of private sector companies in the midst of the home of the federal government.

Brasília's Social and Demographic Development

The per capita income of the Federal District is more than twice the national average (Câmara Legislativa do Distrito Federal, 2010). The District has an abundance of favelas, better known in the U.S. as slums. However, the poor in these areas provide cheap labor that has helped economic growth in the District. Albeit, there is a gap between the elite and the poor, the social inequality is more balanced than the national average (Câmara Legislativa do Distrito Federal, 2010). The population density is the highest in all of Brazil at 410.9 inhabitants per kilometers squared.

Brasília's Education Policy

The Federal District has the highest education rate in the entire county. The literacy rate is 95.8 percent (Câmara Legislativa do Distrito Federal, 2010). Student enrolment in public schools has grown by 33.4 percent from 1992 to 2006 (Câmara Legislativa do Distrito Federal, 2010). It is believed that the increase in school enrollment is the direct result of Governor Cristovam Buarque's Scholarship Program. The Scholarship Program is one percent of the budget that pays a monthly salary to poor families that keep children in school.

Methodology

The purpose of this case study is to compare the governance structure of each federal district as it relates to home rule. An empirical inquiry of policy documents for the District of Columbia and Brasília were assessed for degrees of decentralization based on administrative, legislative, and financial decentralization, in addition to constitutional limitations. The study proposes a model that explains the vertical intergovernmental relations between the United States Congress and the District of Columbia.

The study answers the following questions in order to create the model: (1) What is the relationship between Congress and the Washington D.C. government? (2) How is the relationship between the District of Columbia and Congress different from that of Brasília and Brazil's national government? Answers to these questions were formulated by linking historical and policy information to the following areas: (1) Legislative Decentralization—The extent to which constitutionally assigned powers are actually fully or only partially exercised by the governments to which they are assigned. The degrees of autonomy that the subnational

government may exercise legislative decisions and the extent to which concurrent or shared responsibilities set out in the constitution are completed. (2) Administrative Decentralization: The allocation of administrative responsibilities assigned by the constitution through delegation or intergovernmental agreements. The extent to which the subnational government is dependent on the national level for implementation of local policies. The extent to which the national government has legislative responsibilities may give direction to the subnational government in the administration of legislation. Whether legislative decisions on administrative changes are made at the closest possible level to the population involved. (3) Financial Decentralization: The extent to which decisions regarding taxes, the allocation of resources, and the flexibility of investment are made by the subnational government. (4) Constitutional Limitations: Whether there are constitutional prohibitions of certain activities on the subnational government by the national constitution (Watts, 1996).

The above listed areas of analysis are facets used to express the level of autonomy and the mobilizing role of both federal districts. The information collected in assessing these areas of decentralization is organized into its respective category in order to explain the intent of the policy and its effect on governance. As a means to answer the main questions by the identified subcategories, a broad variety of literature was reviewed such as books journal articles, archival information, the United States Constitution, the District of Columbia Home Rule Act of 1973 (amended through July 15, 2008), the 1988 Constitution of the Federal Republic of Brazil, and the Organic Law of the Federal District, Brasília, to name a few. Multiple sources were used to provide triangulation of the phenomenon, and improve the reliability and validity of the study.

The investigation is done within the realm of practicality, eschewing speculative and valuative discourse; therefore, objectivity lies within reach (Hawkesworht, 1988, 3). The analysis

places emphasis on legislative, administrative, and financial decentralization, in addition to, constitutional limitations. The author's subjectivity was minimized due to the utilization of real-world news reports that are used to support or refute claims, a method that increases construct validity (Yin, 2003). The cumulative assessment considers everything that goes toward increasing the importance of the subnational government's role as decentralization, and therefore increases autonomy. Whereas, everything that goes toward decreasing the subnational government's role as centralization, leading to a decrease in autonomy. Constitutional limitations on the subnational government were considered to have precedence even if the subnational charter/law stated otherwise.

Discussion

In comparing both federal districts, it is clear that the national constitution of each federation distributes powers and autonomy in different ways. The Brazilian constitution specifically notes the powers afforded to each tier of government: national, state, and municipal. Whereas, the United States Constitution only identifies the powers of the national government, leaving the residual powers to the states. In addition, the widely accepted rule in the United States is that local/municipal governments are creatures of the states; therefore, they receive their autonomous powers from their respective state constitution (Wright, 2007). The commonalities of autonomous local/municipal governments in the United States are the abilities to tax and freely use own source revenues as well as the ability to annex property (Shock, 2010). However, for the Washington District of Columbia, the United States Constitution specifically identifies that the United States Congress has total jurisdiction of that area.

In analyzing the Brazilian constitution, it is clear that Brasília is recognized to have the powers of a state and has more constitutional privileges than the District of Columbia. By removing the congressional privilege over the District of Columbia, in the Home Rule Act, the District of Columbia will have responsibilities that are comparable to that of Brasília. However, the District of Columbia is not allowed to make governing decisions solitary of Congress. Inspecting the governing documents of both districts, the Organic Rule of Brasília was drafted by its local constituents based on the national constitution; whereas, the District of Columbia Home Rule Act was drafted by the Council of the District of Columbia and approved by Congress. The Home Rule Act does not give the District any autonomy because Congress relinquishes responsibilities and not legislative power to the District that is clearly stated within the document and has been exercised throughout time (see Appendix B, HRA § 102).

Before delving into further comparative analyses, it is important to set forth what many would consider the most powerful ways to constrain a government, by fiscal and legislative restrictions. These two factors are pertinent mechanisms to achieve an effective, efficient, equitable, and ethical government that is responsive to its constituents. Both factors—fiscal and legislative autonomy—must be present in substantial amounts to assure governing success. Despite its shortcomings, it is evident that Brasília has been able to evolve into a federal district capable of responding to the needs of its constituents. And, the contributors to this successful evolution are the availability of autonomy for legislating local matters and freedom in the use of fiscal resources—apparent in Brasília’s dealings with housing and education issues.

While, the District of Columbia has been given the responsibility to legislate over local matters (see Appendix B, HRA § 302), Congress has to approve all legislation made by the D.C. Council along with its budgetary apportionments. This subjectivity affords the U.S. Congress the

opportunity to use the District of Columbia as its bargaining piece in order to achieve support of national legislation or for congressional representatives to espouse the values of their constituents on the residents of the District of Columbia.

The Home Rule Act clearly preserves congressional authority over the District (as shown in Appendix B, HRA § 102). This stipulation has an explicit effect on governance within the District because the decisions of the District, especially local decisions, are not exclusively made by local constituents, but by congressional representatives with alternative agendas. The opposite of this premise is the case in Brasília; local elected representatives make decisions without any interference from the national government, as seen in the recent corruption case. Therefore, when it comes to the enactment of legislation, the District of Columbia is highly dependent on the approval of Congress, which does not occur in Brasília.

In assessing administrative decentralization, many of the responsibilities for providing public services are laid upon the District of Columbia government. The devolution of financial and managerial responsibilities is transferred from Congress to the District of Columbia. The Home Rule Act unambiguously states that the purpose of the Act is to, “delegate certain legislative powers” to the District of Columbia (Home Rule Act, 1978, 1). Therefore, within the Home Rule Act, a charter was established. This type of devolution is common amongst local governments throughout the United States. Local governments are commonly delegated the administrative responsibilities to provide public safety, parks and recreation, waste water treatment, trash removal, zoning, maintenance of city streets, fire and rescue services, animal control, public transportation, housing assistance, public hospitals, social welfare programs, and public utilities, to name a few.

Furthermore, the District of Columbia has administrative authority over all services typical of a local government in addition to services that are usually rendered by a state. Brasília has comparable authority over the administrative responsibilities like as does the District of Columbia. Therefore, in the aspect of administrative decentralization both federal districts have the same degree of administrative decentralization. However, for the implementation of policies concerning administrative matters, the District of Columbia has to seek approval from Congress.

In assessing financial decentralization, the District of Columbia has a variety of rules to follow. In the Home Rule Act, the District receives a series of guidelines for borrowing, expending, and generating revenues. The provision of the Home Rule Act consists of guidelines concerning the management of fiscal resources. However, the most intrusive of all requirements is the fact that the District's budget has to be approved by an Act of Congress (see Appendix B, HRA § 446). These checks and balances are not a part of Brasília's governance. The national government of Brazil does not intervene in the financial management of Brasília. It is instructive to note here that the national constitution of Brazil does identify the tax base of the Federal District and sets limitations on the power to tax. The Federal District is forbidden from establishing a tax on goods and services, impose a tax without a law to establish it, and unequally tax people of equal status, to name a few. Although the national government has placed tax limitations on the Federal District, Brasília is left with sole governance over the expenditure and management of its revenues. Therefore, Brasília has more authority over the management of its own source revenues than the District of Columbia.

Congress places many constitutional limitations on the District of Columbia (as shown in Appendix B, Title VI). These limitations impose a resonance of apprehension on the District's government. However, the limitations apply to borrowing, spending, as well as the reach of the

District Council. While, the constitutional limitations of Brasilia are not as restrictive as the District of Columbia; as expected, there are national government functions such as immigration, currency, and postal services, to name a few, which are the sole responsibility of the federal government as presented in Appendix A (Article 22) and Appendix C (Article 17).

Overall, decentralization is close to being nonexistent in the District of Columbia. The transfer of duties from Congress to the District appears to show the distribution of powers, however, there are stipulations and contingencies that are attached. The District of Columbia receives tasks with little power to make pertinent decisions; therefore, the subnational government is at the will of the national government. Table 1 is a synopsis of the decentralization in both federal districts.

Table 1. The Distribution of Powers and Functions

	Legislative	Administrative	Fiscal	Constitutional Limitations
Washington D.C.	N/FD	D	N/FD	N
Brasília	FD	FD	FD	N/FD

N = National government power
 FD = Federal district power

Washington D.C. Model of Intergovernmental Relations

From the review of the intergovernmental relationship of the District of Columbia and the federal government, it is clear that this relationship is a dominant authority model. In the dominant-authoritative model, Congress can grant the District more authority without relinquishing any of its own powers. In Figure 1, the outer circle represents Congress and the inner circle is the District of Columbia. The U.S. Congress retains all of its powers; therefore, the

outer circle remains the same. The outer circle can transfer autonomy to the inner circle without changing size constitutionally because Congress has sole authority. However, depending on the will of Congress the inner circle can expand and restrict. This means that the District government can never be a sole authority over governance in the District unless a constitutional amendment is passed. As a result, the powers of the Congress are of positive infinity whereas the powers of the District are finite approaching negative infinity.

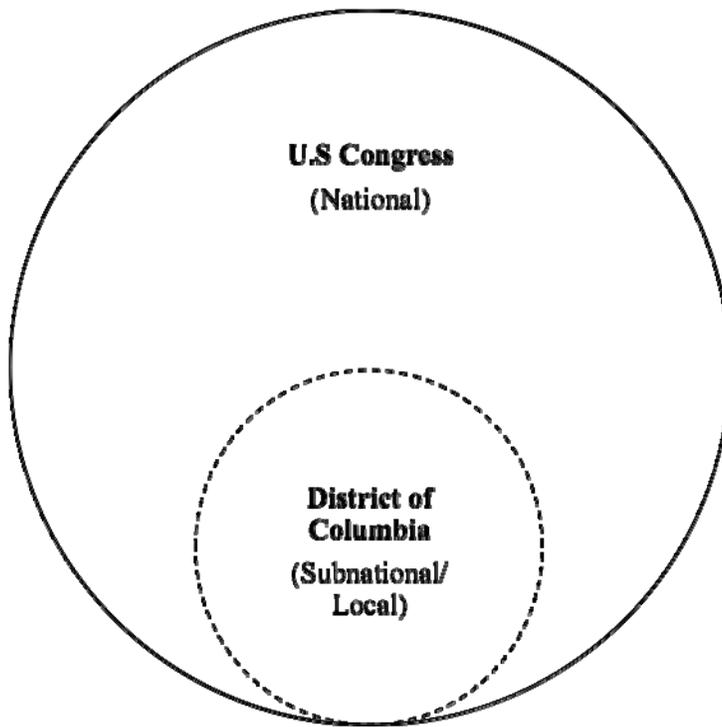


Figure 1. Model of Intergovernmental Relations between the District of Columbia and Congress

The most prominent misconception of the District of Columbia is that the problems of the District can be reconciled with adequate funds. However, in studies dealing with the alleviation

of urban problems, it is proven that “even if sufficient funds were available over time, solutions to urban problems would remain because of the lack of political and governmental institutions that can undertake comprehensive action” (Leach 1976, 4). Also, a poorly constructed intergovernmental fiscal system can lead to many of the fiscal issues of the District (Leach, 1976). Therefore, the District needs autonomy in implementing legislation that will effectively address those problems specific to its constituents.

The urban fiscal problem is the plight of central cities, and the nature of fiscal problems consist of two closely interrelated components: some roots lie in the mismatch of required services and available revenue at the local level, while others lie in the poorly constructed intergovernmental fiscal system (Leach, 1976). It is recommended that Congress design a Control Board on home rule for the District of Columbia that balances fidelity to American democratic principles with the need for effective management and fiscal health of the city that hosts the federal government (Democracy or Distrust, 1998, 2062).

Home rule for a subnational government can be severely limited or not granted at all; however, many national and state governments elected to endow subordinate-level governments with home rule (Democracy or Distrust, 1998). In analyzing home rule and the extent to which a local government should be allowed to govern, it was found that:

...the supervisory role that states or central governments play should not be perceived from the superior-subordinate relationship in which the states or central or regional government would unilaterally dictate how the local governments should be run; and, thereby, leaving little or no room for the local governments to exercise some discretion in deciding on some critical issues that affect the people (Aluko, 2005, 207).

Therefore, the models of intergovernmental relationship that would work best for the District would be similar to the federal-state relationship of the coordinate-authority model as shown in Figure 2. It provides clear boundaries between the authority of the subnational and national

jurisdiction, and shows a seamless intergovernmental connection where the District of Columbia is. Although it is clear that the District of Columbia is a creature of the U.S. Congress, the present relationship, as shown in Figure 1, does not work to the benefit of the District's citizens to effect home rule.

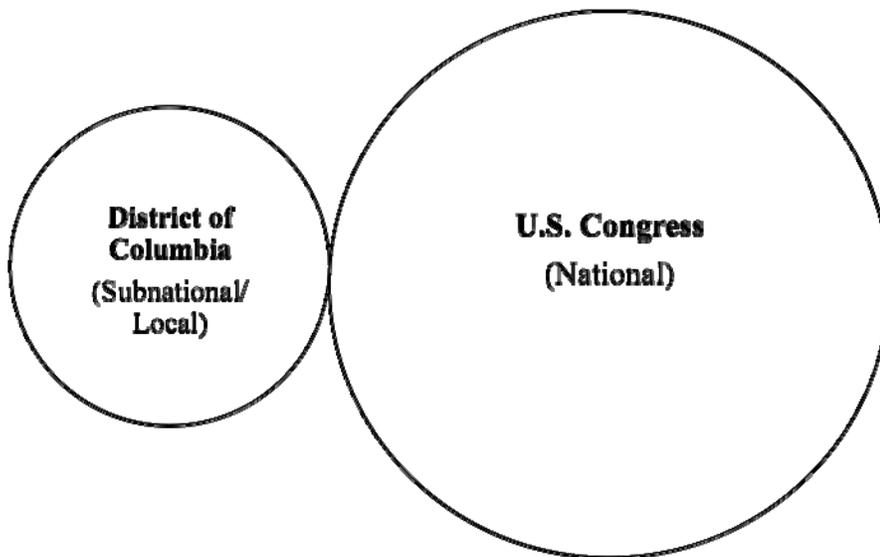


Figure 2. Proposed Model of the Intergovernmental Relations between the Congress and the District of Columbia.

Governance in the Washington District of Columbia is contrary to the conservative perspective of federalism that “opposes central planning, distrusts concentrated power, espouses cynicism about the human ability to govern, and abhors unchecked popular will” (Hendrickson, 2004, 2). The true intention of federalism is not present in the Washington District of Columbia.

An alternative to the major caveats in the District of Columbia Home Rule Act of 1973 may be the allocation of fewer responsibilities. Doing this will bestow greater freedom and autonomy to the District.

As social issues rise—poverty, unemployment, unaffordable housing—in the District, the government is faced with having to deal with a host of issues that require legislative action. Nonetheless, local government will be subject to the ideals of Congress. It is important to note that this study approaches the comparison from a scientific objective and not from a legal perspective. Also, the author notes that there is no single quantifiable index to adequately measure the scope of decentralization and the degree of autonomy within a political system; therefore, individual perspectives can alter the degree of each comparison. This assessment is external and does not consider the norms of each society.

Compared to Brasilia, the District of Columbia does not have a strong government because it receives direction on many matters from Congress, and retains very little home rule powers. Some commonly proposed solutions for the District are to: (1) seek statehood, however, this idea is not possible without a constitutional amendment, and is very unpopular to congressional members; (2) seek full voting representation in Congress; (3) retrocede the District back to the state of Maryland, an idea that also requires congressional support and approval from the state of Maryland; and (4) allow city residents to vote in Maryland for their representatives to the Senate and House (Cityhood for D.C. 2010; Dodd, 2004). Many scholars have contended on the possible preservation of federalism (e.g., Scheiber 1980); however, they agree “that sharing is not evidence of decentralization or diffusion of power” (Scheiber, 1980, 672). Since there is no true separation of powers between the District of Columbia and Congress, federalism is not exercised. This void subjects the residents of the District to disenfranchisement while the citizens

of the United States are either ignorant or apathetic to the governance problem in the District of Columbia.

References

- Akhter, Caitlin Ryan. (1994). A Pilot Syringe Exchange Program in Washington, DC. *American Journal of Public Health*, 84(2), 303-304.
- Alfonso, Jose Roberto., del Mello, Luiz. (2000). Brazil: An Evolving Federation. IMF/FAD Seminar on decentralization. Washington, DC, on November 20-21, 2000.
- Aluko, Bioye Tajudeen. (2005). Building Urban Local Governance Fiscal Autonomy Through Property Taxation Financing Option. *International Journal of Strategic Property Management*, 9(4), 201-214.
- American Health Line. (1995). District of Columbia: Abortion Issue Flares Again. *American Health Line*.
<http://www.americanhealthline.com/archives/1995/10/m951025.10.html>
(accessed October 30, 2009).
- Anonymous. (2007). District of Columbia Self-Government. *Congressional Digest*, 86(5), 137-160.
- Anonymous, (2008). Supreme Court Rules Against D.C. Gun-control Law. *New American*, 24(15), 8.
- Brasília. (2009). In *Encyclopedia Britannica*.
<http://www.britannica.com/EBchecked/topic/77841/Brasilia>. (accessed October 30, 2009, from Encyclopedia Britannica Online).
- Brown, George D. (1982). New Federalism, Old Federalism, and the Fiscal Constitution. *American Bar Association Journal*, 68(8), 946-947.

- Brzinski, Joanne B., Lancaster, Thomas D., and Tuschhoff, Christian. (1999). Federalism and Compounded Representation: Key Concepts and Project Overview. *Publius: The Journal of Federalism*, 19(1), 1-18.
- Caraley, Demetrios., and Schluskel, Yvete R. (1986). Congress and Reagan's New Federalism. *Publius: The Journal of Federalism*, 16(1), 49-79.
- Camara Legislativa do Distrito Federal. (2010). Organic Law. www.cl.df.gov.br/cldf/legislacao/lei-organica (accessed Jan 12, 2010).
- Chapman, Robin. (1973). Decentralization: Another Perspective. *Comparative Education*, 9(3), 127-134.
- Cho, Chung-Lee., and Wright, Deil S. (2001). Managing Carrots and Sticks: Changes in State Administrators' Perceptions of Cooperative and Coercive Federalism during the 1990s. *Publius: The Journal of Federalism*, 31(2), 57-80.
- Cityhood for D.C. (2010). Cityhood for DC: A Project of the Committee for the Capital City. <http://www.cityhoodfordc.org/> (accessed March 20, 2010).
- DC Fiscal Policy Institute. (2009). *The Middle-Class Squeeze: DC's Tax System Falls Most Heavily on Moderate-Income Families*. <http://wwwdcfpi.org/the-middle-class-squeeze-dcE2%80%99s-tax-system-falls-most-heavily-on-moderatie-income-families> (accessed March 20, 2010).
- Democracy or Distrust? Restoring Home Rule for the District of Columbia in the Post-Control Board Era, *111 Harvard Law Review*, 2045(May 1998), 2045-2062.
- Dewar, Helen. (1990). D.C. Abortion, Death Penalty Plans Fail; Hill Negotiators Clear Way for Passage of Aid to Nicaragua, Panama. *The Washington Post*. (May 18), Final Edition.

- District of Columbia. (1973). The District of Columbia Home Rule Act as amended through 2008. <http://www.dccouncil.washington.dc.us/media/Legislation%20and%20Laws/Home%20Rule%20Act.pdf> (accessed April 22, 2010).
- Dodd, Jeffery Thomas. (2004). Curing Disenfranchisement in the District of Columbia: What Hasn't Worked and Why?. *Law and Society Review at UCSB*, III.
- Dowbor, Ladislau. (1998). Decentralization and Governance. *Latin American Perspectives*, 25(1), 28-44.
- Elliot, Shannon. (2007). Regional disparities shape intergovernmental relations in Brazil. <http://www.forumfed.org/en/events/event.php?id=382>. (accessed October 30, 2009).
- Escobar, Lemmon. (2001). Fiscal Decentralization and Federalism in Latin America. *Publius: The Journal of Federalism*, 31(4), 23-41.
- Evenson, Norma. (1973). *Two Brazilian Capitals: Architecture and Urbanism in Rio de Janeiro and Brasília*. New Haven, CT: Yale University Press.
- Fleurke, Frederik., and Willemsse, R. (2004). Approaches to Decentralization and Local Autonomy: A Critical Appraisal. *Administrative Theory and Praxis*, 26(4), 523-544.
- Freitag, Markus., and Vatter, Adrian. (2008). Decentralization and Fiscal Discipline. *Publius: The Journal of Federalism*, 38(2), 272-294.
- González, Lucas I. (2008). Political Power, Fiscal Crises, and Decentralization in Latin America: Federal Countries in Comparative Perspective (and some Contrasts with Unitary Cases). *Publius: The Journal of Federalism*, 38(2), 211-247.
- Government of Brazil. (1988). Brazil. Constitution of the Federative Republic of Brazil of 1988, with Reforms through 1996.

- <http://pdba.georgetown.edu/Constitutions/Brazil/brtitle1.html> (accessed October 30, 2009).
- Gusmão, Lísa. (2010). *The Case for Federal Intervention in Brasília. Would It Make Any Difference? Brazzil*, March 1. <http://brazzil.com/component/content/article/217-march-2010/10364-the-case-for-federal-intervention-in-brasilia-would-it-make-any-difference.html> (accessed March 20, 2010).
- Hail, Michael., and Lange, Stephen. (2010). Federalism and Representation in the Theory of the Founding Fathers: A Comparative Study of U.S. and Canadian Constitutional Thought. *Publius: The Journal of Federalism*, Special Issue (February 25), 1-24.
- Hawkesworth, M.E. (1988). *Theoretical Issues in Policy Analysis*. Albany, NY: State University of New York Press.
- Hendrickson, Kimberly. (2004). Conservative Perspectives on American Federalism: Introduction. *Publius: The Journal of Federalism*, 34(3), 1-7.
- Holston, James. (1989). *The Modernist City: Anthropological Critique of Brasilia*. Chicago IL: The University of Chicago Press.
- Institute on Taxation and Economic Policy. (2009). *ITEP's Who Pays? Report Renews Focus on Tax Fairness Across the Nation*.
http://www.ctj.org/taxjusticedigest/archive/state_tax_issues/disrict_of_columbia/
(accessed March 20, 2010).
- Jost, Kenneth. (2007). Gun violence: Are Stronger Measures Needed to Protect Society?. *CQ Researcher*, 17(20), 457-480.

- Jost, Kenneth (1996). Governing Washington, D.C.: Are Major Changes Needed or Simply More Money. *The CQ Researcher*, 6(44), 1033-1056.
- Kee, James Edwin. (2003). Fiscal Decentralization: Theory as Reform. http://www.gwu.edu/~clai/working_papers/James%20Kee%20Fiscal%20Decentralization%20paper%202003.pdf (accessed March 20, 2010).
- Kennedy, David M., Cohen, Lizabeth., Bailey, Thomas., and Piehl, Mel. (2000). *The Brief American Pageant: A History of the Republic*. Boston: Houghton Mifflin Company.
- Jenkins, Kent., and Bell, Thomas. (1990). Commuter Tax Plan Revived; Levy Could Generate \$1 Billion for D.C. *The Washington Post*. (August 23), Page J1.
- Kincaid, John. (1990). From Cooperative to Coercive Federalism. *Annals of the American Academy of Political and Social Science*, 509(May), 139-152.
- Kincaid, John. (2004). Felix Morley on Freedom and Federalism. *Publius: The Journal on Federalism*, 34(4), 69-87.
- Kugel, Seth. (2009). Home ownership woes in Brasilia. *Global Post*. (January 21).
- Lazere, Ed. (2010). No Shelter from the Storm: DC's Rainy Fund is Inaccessible in the Midst of a Sever Fiscal Crisis. *Fiscal Policy Institute*. <http://www.dcfpi.org/no-shelter-from-the-storm-dc%E2%80%99s-rainy-fund-is-inaccessible-in-the-midst-of-a-severe-fiscal-crisis> (accessed March 20, 2010).
- Leach, Richard H. (1970). *American Federalism*. New York: W.W. Norton.
- Leach, Richard H. (1976). *Improving Urban America: A Challenge to Federalism*. Washington, D.C.: Advisory commission on Intergovernmental Relations.
- Levine, S., and Sheridan, M. (2007). House Repeals Needle Ban; Decision on Funding

- Thrills D.C. Officials Fighting the HIV/AIDS Epidemic. *Washington Post*. (June 29), Met 2 Edition.
- Lee, Robert., Johnson, Ronald Wayne, and Joyce, Phillip G. (2004). *Public Budgeting Systems*. Sudbury, MA: Jones and Bartlett Publishers, Inc.
- Lipton, Eric. (1999). House Rejects D.C. Marijuana, Needle Efforts. *Washington Post*. (July 30), Final Edition.
- Luna, Francisco Vidal., and Klein, Herbert S. (2006). *Brazil Since 1980*. New York, NY: Cambridge University Press.
- Niskanen, William, A. (1991). The District of Columbia: America's Worst Government?. *Policy Analysis*, November(165).
http://www.cato.org/pub_display.php?pub_id=1025&full=1 (accessed April 25, 2009).
- O'Cleireacain, Carol. (1997). *The Orphaned Capital: Adopting the Right Revenues for the District of Columbia*. Washington, D.C.: Brookings Institution Press.
- O'Toole, Lawrence J. (2007). *American Intergovernmental Relations*. Washington, D.C.: CQ Press.
- Peterson, George E. (1997). *Decentralization in Latin America: Learning Through Experience*. Washington, D.C.: The World Bank.
- Peterson, Paul E. (1995). *The Price of Federalism*. New York, NY: The Twentieth Century Fund Inc.
- Political Database of the Americas. (2005). Federative Republic of Brazil Constitution of 1988. <http://pdba.georgetown.edu/Constitutions/Brazil/brazil.html> (accessed January 29, 2009).

- Posner, Paul. (2007). The Politics of Coercive Federalism in the Bush Era. *Publius: The Journal of Federalism*, 37(3), 390-412.
- Prud'homme, Remy. (1995). The Dangers of Decentralization. *The World Bank Research Observer*, 10(2), 201-220.
- Rae, Douglas W. (2003). *City: Urbanism and Its End*. New Haven, CT: Yale Up.
- Rodden, Jonathan. 2004. Comparative Federalism and Decentralization: On Meaning and Measurement. *Comparative Politics*. 36(4), 481-500.
- Rosenthal, Donald B., and Hoefler, James M. (1989). Competing Approaches to the Study of American Federalism and Intergovernmental Relations. *Publius: The Journal of Federalism*, 19(1), 1-23.
- Rowat, Donald C. (1968). The Problem of Governing Federal Capitals. *Canadian Journal of Political Science*, 1(3), 345-356.
- Scheiber, Harry N. (1980). Federalism and Legal Process: Historical and Contemporary Analysis of the American System. *Law and Society Review*, 14(3), 663-722.
- Scheiber, Harry N. (2007). *American Intergovernmental Relations*. Ed. Lawrence J. O'Toole. Washington, D.C.: CQ Press.
- Shock, David. (2009). Part I: The Foundations of Governmental Relations in the U.S. Lecture, Kennesaw State University, Kennesaw, GA, January 20.
- Skidmore, Thomas. (2010). *Brazil*. Oxford: Oxford University Press.
- Shafritz, Jay M., Ott, J Steven., and Jang, Yong Suk. (2005). *Classics of Organization Theory*. Boston: Thompson Wadsworth.
- Staten, Clifford Lee. (1993). Theodore Roosevelt: Dual and Cooperative Federalism. *Presidential Studies Quarterly*, 23(1), 129-143.

- Stepan, Alfred. (2000). Brazil's Decentralized Federalism: Bringing Government Closer to the Citizens? *Daedalus*, 129(2), 145-169.
- Stephens, G Ross., and Wikstrom, Nelson. (2007). *American Intergovernmental Relations: A Fragmented Federal Polity*. New York: Oxford University Press.
- Super, David A. (2005). Rethinking Fiscal Federalism. *Harvard Law Review*, 118(8), 2544-2652.
- Watts, Ronald L. (1996). *Comparing Federal Systems in the 1990s*. Institute of Intergovernmental Relations. Ontario, Canada: K7L3n6.
- Watts, Ronald L. (1998). Federalism, Federal Political Systems, and Federations. *Annual Review of Political Science*, 1(1), 117-37.
- Weiss, Eric M. (2005). D.C.'s Bid To Impose Commuter Tax Denied: Court Undercuts Home-Rule Effort. *The Washington Post*.
- Weissert, Carol S., Stenberg, Carl W., and Colez, Richard L. (2009). Continuity and Change: A Ranking of Key Issues Affecting U.S. Intergovernmental Relations (1995-2005). *Publius: The Journal of Federalism*, 39(4), 677-695.
- West's Encyclopedia of American Law. (2004). Ed. Jeffery Lehman and Shirelle Phelps. Detroit: Thomas/Gale.
- Wheeler, Linda. Liberal Abortion Funding Plan To Be Added to District Budget. *The Washington Post*. March 18, 1994. Final Edition.
- Wright, Deil, S. (1988). *Understanding Intergovernmental Relations*. Pacific Grove, California: Brooks/Cole Publishing Company.
- Wright, Deil, S. (2007). *American Intergovernmental Relations*. Ed. Lawrence J. O'Toole. Washington, D.C.: CQ Press.

- Yin, Robert K. (2003). *Applications of Case Study Research* (2nd ed). Thousand Oaks, CA: Sage.
- Zimmerman, Joseph F. (2001). National-State Relations: Cooperative Federalism in the Twentieth Century. *Publius: The Journal of Federalism*, 31(2), 15-30.
- Zimmermann, Ulf. (2010). From City to Suburb: Home and family. Lecture, Kennesaw State University, GA, February 24.
- U.S. Congress. House of Representatives. H.R. 4269. 108th Cong., 2d sess., 2004
- U.S. Department of Commerce. (2000). *U.S. Native American Tribal Units*.
http://www.census.gov/geo/www/cd109th/AIHH_code_to_name.txt (accessed February 17, 2010).
- U.S. Department of Commerce. (2004). *United States Summary: 2000 Population and Housing Unit Counts*. <http://www.census.gov/prod/cen2000/phc3-us-pt1.pdf> (accessed February 17, 2010).
- U.S. Senate, Office of the General Counsel, District of Columbia Home Rule Act, July 15, 2008.

Appendices

Appendix A

Referenced parts of Brazil's National Constitution:

TITLE III. THE ORGANIZATION OF THE STATE

Article 21. The Union shall have the power to:

- i. maintain relations with foreign states and participate in international organizations;
- ii. declare war and make peace;
- iii. ensure national defense;
- iv. allow foreign forces, in the cases provided for in a supplementary law, to pass through the national territory or to remain therein temporarily;
- v. declare a state of siege, a state of defense and federal intervention;
- vi. authorize and control the production and trade of military materiel;
- vii. issue currency;
- viii. manage the foreign exchange reserves of the country and control financial operations, especially those of credit, exchange and capitalization, as well as insurance and private security;
- ix. prepare and carry out national and regional plans for the ordaining of the territory and for economic and social development;
- x. maintain the postal service and the national air mail;
- xi. *operate, directly or through authorization, concession or permission, the telecommunications services, as set forth by law, which law shall provide for the organization of the services, the establishment of a regulatory agency and other institutional issues;*
- xii. operate, directly or through authorization, concession or permission:
 - a. *the services of sound broadcasting and of sound and image broadcasting;*
 - b. the electric power services and facilities and the energetic exploitation of watercourses, jointly with the states wherein those hydro-energetic potentials are located;
 - c. air and aerospace navigation and airport infrastructure;
 - d. railway and waterway services between seaports and national borders or which cross
 - e. the boundary of a state or territory;
 - f. interstate and international highway passenger transportation services;
 - g. sea, river and lake ports;
- xiii. organize and maintain the Judicial Power, the Public Prosecution and the Public Legal Defense of the Federal District and territories;
- xiv. organize and maintain the federal police, the federal highway and railway polices as well as the civil police, the military police, the military fire brigade of the Federal District and territories;
- xv. organize and maintain the official services of statistics, geography, geology and cartography of national scope;
- xvi. classify, for indicative purposes, public entertainment and television programs;
- xvii. grant amnesty;

- xviii. plan and promote permanent defense against public disasters especially droughts and floods;
- xix. establish a national system for the management of hydric resources and define criteria for the concession of the right to their use;
- xx. establish directives for urban development, including housing, basic sanitation and urban transportation;
- xxi. establish principles and directives for the national transportation system;
- xxii. perform the services of maritime, air, and border police;
- xxiii. operate nuclear energy services and facilities of any nature, exercise state monopoly over research, mining, enrichment and reprocessing, industrialization and trade in nuclear ores and their by-products, taking into account the following principles and conditions:
 - a. all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress;
 - b. under a concession or permission, authorization is given for the of radioisotopes in research and for medical, agricultural and industrial use as well as for other analogous activities;
 - c. civil liability for nuclear damages does not depend on the existence of fault;
- xxiv. organize, maintain and carry out inspection of working conditions;
- xxv. establish the areas and conditions for the exercise of placer mining activities in associative form.

Article 22. The Union has the exclusive power to legislate on:

- i. civil, commercial, criminal, procedural, electoral, agrarian, maritime, aeronautical, space and labour law;
- ii. expropriation;
- iii. civil and military requisitioning, in case of imminent danger or in times of war;
- iv. waters, energy, informatics, telecommunications and radio broadcasting;
- v. the postal service;
- vi. the monetary and measures systems, metal certificates and guarantees;
- vii. policies for credit, foreign exchange, insurance and transfer of values;
- viii. foreign and interstate trade;
- ix. guidelines for the national transportation policy;
- x. the regime of the ports and lake, river, ocean, air and aerospace navigation;
- xi. traffic and transportation;
- xii. beds of ore, mines, other mineral resources and metallurgy;
- xiii. nationality, citizenship and naturalization;
- xiv. Indian populations;
- xv. emigration, immigration, entry, extradition and expulsion of foreigners;
- xvi. the organization of the national employment system and conditions for the practice of professions;
- xvii. the judicial organization of the Public Prosecution and of the Public Legal Defense of the Federal District and of the territories, as well as their administrative organization;
- xviii. the national statistical, cartographic and geological systems;
- xix. systems of savings, as well as of obtaining and guaranteeing popular savings;
- xx. consortium and lottery systems;
- xxi. general organization rules, troops, material guarantees, drafting and mobilization of the military police and military fire brigades;

- xxii. the jurisdiction of the federal police and of the federal highway- and military polices;
 - xxiii. social security;
 - xxiv. directives and bases of the national education;
 - xxv. public registers;
 - xxvi. nuclear activities of any nature;
 - xxvii. general rules for all types of bidding and contracting, for the direct and indirect public administration, including foundations instituted and maintained by the Government, in its various spheres, and companies under government control;
 - xxviii. territorial defense, aerospace defense, maritime defense, civil defense, and national mobilization;
- commercial advertising.

Article 23. The Union, the states, the Federal District and the municipalities, in common, have the power:

- xxvi. to ensure that the Constitution, the laws and the democratic institutions are respected and that public property is preserved;
- xxvii. to provide for health and public assistance, for the protection and safeguard of handicapped persons;
- xxviii. to protect the documents, works and other assets of historical, artistic or cultural value, the monuments, the remarkable landscapes and the archaeological sites;
- xxix. to prevent works of art and other assets of historical, artistic and cultural value from being taken out of the country, destroyed or from being deprived of their original characteristics;
- xxx. to provide the means of access to culture, education and science;
- xxxi. to protect the environment and to fight pollution in any of its forms;
- xxxii. to preserve the forests, fauna and flora;
- xxxiii. to promote agriculture and cattle breeding and organize the supply of foodstuff;
- xxxiv. to promote housing construction programs and the improvement of housing and basic sanitation conditions;
- xxxv. to fight the causes of poverty and the factors leading to substandard living conditions, promoting the social integration of the unprivileged sectors of the population;
- xxxvi. to register, monitor and control the concessions of rights to research and exploit hydric and mineral resources within their territories;
- xxxvii. to establish and to implement an educational policy for traffic safety.

Sole paragraph - A supplementary law shall establish rules for the cooperation between the Union and the states, the Federal District and the municipalities aiming at the attainment of balanced development and well- being on a nationwide scope.

Article 24. The Union, the states and the Federal District have the power to legislate concurrently on:

- i. tax, financial, penitentiary, economic and urbanistic law;
- ii. budget;
- iii. trade boards
- iv. costs of forensic services;

- v. production and consumption;
- vi. forests, hunting, fishing, fauna, preservation of nature, defense of the soil and natural resources, protection of the environment and control of pollution;
- vii. protection of the historic, cultural and artistic heritage, as well as of assets of touristic interest and landscapes of outstanding beauty;
- viii. liability for damages to the environment, to consumers, to assets and rights of artistic, aesthetic, historical, and touristic value, as well as to remarkable landscapes;
- ix. education, culture, teaching and sports;
- x. establishment, operation and procedures of small claims courts;
- xi. judicial procedures;
- xii. social security, protection and defense of health;
- xiii. legal assistance and public defense;
- xiv. protection and social integration of handicapped persons;
- xv. protection of childhood and youth;
- xvi. organization, guarantees, rights and duties of the civil policies.
- xvii. Paragraph 1 - Within the scope of concurrent legislation, the competence of the Union shall be limited to the establishment of general rules.
- xviii. Paragraph 2 - The competence of the Union to legislate upon general rules does not exclude the supplementary competence of the states
- xix. Paragraph 3 - If there is no federal law or general rules, the states shall exercise full legislative competence to provide for their peculiarities.
- xx. Paragraph 4 - The supervenience of a federal law over general rules suspends the effectiveness of a state law to the extent that the two are contrary

CHAPTER V - THE FEDERAL DISTRICT AND THE TERRITORIES

SECTION I - THE FEDERAL DISTRICT

Article 32. The Federal District, which may not be divided into municipalities shall be governed by an organic law, voted in two readings, with a minimum interval of ten days, and approved by two-thirds of the Legislative Chamber, which shall enact it, in accordance with the principles set forth in this Constitution.

Paragraph 1 - The legislative powers reserved to the states and municipalities are attributed to the Federal District.

Paragraph 2 - The election of the Governor and the Vice-Governor, complying with the rules of article 77, and of the District Deputies shall coincide with that of the state Governors and Deputies, for a term of office of the same...

Paragraph 3 - The provisions of article 27 apply to the District Deputies and the Legislative Chamber.

Paragraph 4 - A federal law shall provide for the use, by the Government of the Federal District, of the civil and military polices and the military fire brigade.

Appendix B

Referenced parts of the District of Columbia Home Rule Act of 1973

TITLE I

STATEMENT OF PURPOSES

SEC. 102. [D.C. Official Code § 1-201.02] (a) Subject to the retention by Congress of the ultimate legislative authority over the nation's capital granted by article I, § 8, of the Constitution, the intent of Congress is to delegate certain legislative powers to the government of the District of Columbia; authorize the election of certain local officials by the registered qualified electors in the District of Columbia; grant to the inhabitants of the District of Columbia powers of local self-government; modernize, reorganize, and otherwise improve the governmental structure of the District of Columbia; and, to the greatest extent possible, consistent with the constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters.

(b) Congress further intends to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia and take certain other actions irrespective of whether the charter for greater self-government provided for in title IV of this Act [District Charter] is accepted or rejected by the registered qualified electors of the District of Columbia.

TITLE II

LEGISLATIVE POWER

SEC. 302. [D.C. Official Code § 1-203.02] Except as provided in sections 601, 602, and 603 [D.C. Official Code §§ 1-206.01, 1-206.02, and 1-206.03], the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act subject to all the restrictions and limitations imposed upon the States by the tenth section of the first article of the Constitution of the United States.

TITLE IV

PART C -- THE JUDICIARY

JUDICIAL POWERS

SEC. 431. [D.C. Official Code § 1-204.31] (a) The judicial power of the District is vested in the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. The Superior Court has jurisdiction of any civil action or other matter (at law or in equity) brought in the District and of any criminal case under any law applicable exclusively to the District. The Superior Court has no jurisdiction over any civil or criminal matter over which a United States court has exclusive jurisdiction pursuant to an Act of Congress. The Court of Appeals has jurisdiction of appeals from the Superior Court and, to the extent provided by law, to review orders and decisions of the Mayor, the Council, or any agency of the District. The District of Columbia courts shall also have jurisdiction over any other matters granted to the District of Columbia courts by other provisions of law...

ENACTMENT OF APPROPRIATIONS BY CONGRESS

SEC. 446. [D.C. Official Code § 1-204.46] The Council, within 56 calendar days after receipt of the budget proposal from the Mayor, and after public hearing, shall by act adopt the annual budget for the District of Columbia government. Any supplements thereto shall also be adopted by act by the Council after public hearing. Such budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress. Except as provided in section 445A(b), section 467(d), section 471(c), section 472(d)(2), section 475(e)(2), section 483(d), and section 490(f), (g), (h)(3), and (i)(3), [D.C. Official Code §§ § 1-204.45a(b), § 1-204.67(d), § 1-204.71(c), § 1-204.72(d)(2), § 1-204.75(e)(2), § 1-204.83(d), and subsections (f), (g), (h)(3), and (i)(3) of § § 1-204.90] no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act. Notwithstanding any other provision of this Act, the Mayor shall not transmit any annual budget or amendments or supplements thereto, to the President of the United States until the completion of the budget procedures contained in this Act. After the adoption of the annual budget for a fiscal year (beginning with the annual budget for fiscal year 1995), no reprogramming of amounts in the budget may occur unless the Mayor submits to the Council a request for such reprogramming and the Council approves the request, but only if any additional expenditures provided under such request for an activity are offset by reductions in expenditures for another activity.

CONSISTENCY OF BUDGET, ACCOUNTING, AND PERSONNEL SYSTEMS

SEC. 447. [D.C. Official Code § 1-204.47] The Mayor shall implement appropriate procedures to insure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis. No employee shall be hired on a full-time or part-time basis unless such position is authorized by act of Congress. Employees shall be assigned in accordance with the program, organization, and fund categories specified in the act of Congress authorizing such position. Hiring of temporary employees and temporary employee transfers among programs shall be consistent with applicable acts of Congress and reprogramming procedures to insure that costs are accurately associated with programs and sources of funding.

Subpart 2 -- Audit

DISTRICT OF COLUMBIA AUDITOR

SEC. 455. [D.C. Official Code § 1-204.55] (a) There is established for the District of Columbia the Office of District of Columbia Auditor who shall be appointed by the Chairman, subject to the approval of a majority of the Council. The District of Columbia Auditor shall serve for a term of six years and shall be paid at a rate of compensation as may be established from time to time by the Council...

(d) The District of Columbia Auditor shall submit his audit reports to the Congress, the Mayor, and the Council. Such reports shall set forth the scope of the audits conducted by him and shall include such comments and information as the District of Columbia Auditor may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as he may deem advisable...

TITLE VI

RETENTION OF CONSTITUTIONAL AUTHORITY

SEC. 601. [D.C. Official Code § 1-206.01] Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

LIMITATIONS ON THE COUNCIL

SEC. 602. [D.C. Official Code § 1-1-206.02] (a) The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to --

- (1) impose any tax on property of the United States or any of the several states;
- (2) lend the public credit for support of any private undertaking;
- (3) enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;
- (4) enact any act, resolution, or rule with respect to any provision of title 11 of the District of Columbia [Official] Code (relating to organization and jurisdiction of the District of Columbia courts);
- (5) impose any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms "individual" and "resident" to be understood for the purposes of this paragraph as they are defined in section 4 of title I of the District of Columbia Income and Franchise Tax Act of 1947[, approved July 16, 1947 (61 Stat. 332; D.C. Official Code § 47-1801.04)]);
- (6) enact any act, resolution, or rule which permits the building of any structure within the District of Columbia in excess of the height limitations contained in section 5 of the Act of June 1, 1910 [An Act To regulate the height of buildings in the District of Columbia (36 Stat. 453)] (D.C. Code, sec. 5-405)[D.C. Official Code § 6-601.05], and in effect on the date of 66 enactment of this Act [December 24, 1973];
- (7) enact any act, resolution, or regulation with respect to the Commission on Mental Health;
- (8) enact any act or regulation relating to the United States District Court for the District of Columbia or any other court of the United States in the District other than the \ District courts, or relating to the duties or powers of the United States Attorney or the United States Marshal for the District of Columbia;
- (9) enact any act, resolution, or rule with respect to any provision of title 23 of the District of Columbia [Official] Code (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 of the District of Columbia Code (relating to crimes and treatment of prisoners), or with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22 during the forty-eight full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office; or
- (10) enact any act, resolution, or rule with respect to the District of Columbia

Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 [D.C. Official Code § 47-391.01(a)].

(b) Nothing in this Act shall be construed as vesting in the District government any greater authority over the National Zoological Park, the National Guard of the District of Columbia, the Washington Aqueduct, the National Capital Planning Commission, or, except as otherwise specifically provided in this Act, over any federal agency, than was vested in the Commissioner [Mayor] prior to the effective date of title IV [District Charter] of this Act [January 2, 1975].

(c) (1) Except acts of the Council which are submitted to the President in accordance with the Budget and Accounting Act, 1921 [Chapter 11 of Title 31, United States Code], any act which the Council determines, according to section 412(a) [D.C. Official Code § 1-204.12(a)], should take effect immediately because of emergency circumstances, and acts proposing amendments to title IV of this Act [District Charter] and except as provided in section 462(c) and section 472(d)(1) [D.C. Official Code §§ 1-204.62(c) and § 1-204.72(d)(1)], the Chairman of the Council shall transmit to the Speaker of the House of Representatives, and the President of the Senate, a copy of each act passed by the Council and signed by the Mayor, or vetoed by the Mayor and repassed by two-thirds of the Council present and voting, each act passed by the Council and allowed to become effective by the Mayor without his signature, and each initiated act and act subject to referendum which has been ratified by a majority of the registered qualified electors voting on the initiative or referendum. Except as provided in paragraph (2) [of this subsection,] such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than three days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate, or upon the date prescribed by such act, whichever is later, unless during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been

67 transmitted to the President, such resolution, upon becoming law, subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law. The provisions of section 604 [D.C. Official Code § 1-206.04], except subsections (d), (e), and (f) of such section, shall apply with respect to any joint resolution disapproving any act pursuant to this paragraph.

(2) In the case of any such act transmitted by the Chairman with respect to any act codified in title 22, 23, or 24 of the District of Columbia [Official] Code, such act shall take effect at the end of the 60-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate unless, during such 60-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 60-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 60-day period shall be deemed to have repealed such act, as of the date such resolution becomes law. The provisions of section 604 [D.C. Official Code § 1-206.04], relating to an expedited procedure for consideration of joint resolutions, shall apply to a joint resolution disapproving such act as specified in this paragraph.

(3) The Council shall submit with each Act transmitted under this subsection an estimate of the costs which will be incurred by the District of Columbia as a result of the enactment of the Act in each of the first 4 fiscal years for which the Act is in effect, together with a statement of the basis for such estimate.

BUDGET PROCESS; LIMITATIONS ON BORROWING AND SPENDING

SEC. 603. [D.C. Official Code § 1-206.03] (a) Nothing in this act shall be construed as making any change in existing law, regulation, or basic procedure and practice relating to the respective roles of the Congress, the President, the federal Office of Management and Budget, and the Comptroller General of the United States in the preparation, review, submission, examination, authorization, and appropriation of the total budget of the District of Columbia government.

(b)(1) No general obligation bonds (other than bonds to refund outstanding indebtedness) or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 17 percent of the District revenues (less any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) [D.C. Official Code § 1-204.90(a)] (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year in which the bonds will be issued. Treasury capital project loans include all borrowings from the United States Treasury, except those funds advanced to the District by the Secretary of the Treasury under the provisions of title VI of the District of Columbia Revenue 68 Act of 1939 [approved July 26, 1939 (P.L. 76-225; 53 Stat. 1118)]. (2) Obligations incurred pursuant to the authority contained in the District of

Columbia Stadium Act of 1957[, approved September 7, 1957] (71 Stat. 619; D.C. Code, title 2, chapter 17, subchapter II) [D.C. Official Code §§ 3-321 through 3-330], obligations incurred by the agencies transferred or established by sections 201 [Amendments] and 202 [D.C. Official Code § 1-202.02], whether incurred before or after such transfer or establishment, and obligations incurred pursuant to general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects, shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in the preceding paragraph.

(3) The 17 percent limitation specified in paragraph (1) [of this subsection] shall be calculated in the following manner:

(A) Determine the dollar amount equivalent to 17 percent of the District revenues (less any fees or revenues directed to servicing revenue bonds, any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) [D.C.

Official Code § 1-204.90(a)] (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes), retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year for which the bonds will be issued;

(B) Determine the actual total amount of principal and interest to be paid in each fiscal year for all outstanding general obligation bonds (less the allocable portion of principal and interest to be paid during the year on general obligation bonds of the District of

Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects) and such Treasury loans;

(C) Determine the amount of principal and interest to be paid during each fiscal year over the term of the proposed general obligation bond or such Treasury loan to be issued; and

(D) If in any one fiscal year the sum arrived at by adding subparagraphs

(B) and (C) [of this paragraph] exceeds the amount determined under subparagraph (A) [of this paragraph], then the proposed general obligation bond or such Treasury loan in subparagraph (C) [of this paragraph] cannot be issued.

(c) Except as provided in subsection (f) [of this section], the Council shall not approve any budget which would result in expenditures being made by the District government, during any fiscal year, in excess of all resources which the Mayor estimates will be available from all funds available to the District for such fiscal year. The budget shall identify any tax increases which shall be required in order to balance the budget as submitted. The Council shall be required to adopt such tax increases to the extent its budget is approved.

(d) Except as provided in subsection (f) [of this section], the Mayor shall not forward to the President for submission to Congress a budget which is not balanced according to the provision of subsection 603(c) [(subsection (c) of this section) -- D.C. Official Code § 1-206.03(c)].

(e) Nothing in this Act shall be construed as affecting the applicability to the District government of the provisions of section 3679 of the Revised Statutes of the United States (31 69 U.S.C. 1341), the so-called Anti-Deficiency Act [Subchapter II of Chapter 15 of Title 31, United States Code].

(f) In the case of a fiscal year which is a control year (as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995[, approved April 17, 1995 (109 Stat. 152; D.C. [Official] Code § 47-393(4))--

(1) subsection (c) of this section and subsection (d) [of this section] shall not apply; and

(2) the Council may not approve, and the Mayor may not forward to the President, any budget which is not consistent with the financial plan and budget established for the fiscal year under subtitle A of title II of such Act [part B of subchapter VII of Chapter 3 of Title 47 of the D.C. Official Code].

CONGRESSIONAL ACTION ON CERTAIN DISTRICT MATTERS

SEC. 604. [D.C. Official Code § 1-206.04] (a) This section is enacted by Congress --

(1) as an exercise of the rulemaking power of the Senate and the House of

Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purpose of this section, "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the approves/disapproves of the action of the District of Columbia Council described as follows:", the blank spaces therein

being appropriately filled, and either approval or disapproval being appropriately indicated; but does not include a resolution which specifies more than 1 action.

(c) A resolution with respect to Council action shall be referred to the Committee on the District of Columbia of the House of Representatives, or the Committee on the District of Columbia of the Senate, by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) If the Committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the Committee from further consideration of any other resolution with respect to the same Council action which has been referred to the Committee.

(e) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the Committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the Committee be made with respect to any other resolution with respect to the same action.

(g) When the Committee has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(h) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(i) Motions to postpone made with respect to the discharge from Committee or the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(j) Appeals from the decisions of the chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

Appendix C

Referenced Parts of the Organic Law of the Federal District (Brasília)

CHAPTER III, Section I, Article 15

THE JURISDICTION OF THE FEDERAL DISTRICT

Competency Private

Incumbent upon the Federal District:

- I. to organize its government and administration;
- II. create, organize, or terminate Administrative Regions, in accordance with applicable law;
- III. to establish and collect taxes, subject to the cumulative power of the Federal District;
- IV. establish, monitor and charge rates and public prices of its mission;
- V. to provide for the administration, use, acquisition and disposal of public assets;
- VI. organize and provide, directly or by concession or permission, the services of local interest, including public transportation, which is of essential nature;
- VII. keep with the technical and financial cooperation of the education programs, primarily elementary and preschool;
- VIII. celebrate and sign adjustments, joint ventures, partnerships, agreements and administrative decisions with the Union, states and municipalities for enforcement of its laws and services;
- IX. Developing and implementing the annual plan, the budget guidelines and annual budget;
- X. Developing and implementing the Master Plan of Land Management, the Law of Use and Land Use and Local Development Plans to promote proper land use planning, integrated with environmental values, through planning and controlling the use, subdivision and occupation of urban land, (Item with the wording of the Amendment to the Organic Law No. 49 of 2007.) 2
- XI. authorize, allow or permit and regulate, license and monitor services of vehicle rentals;
- XII. to provide for the creation, transformation and extinction of offices, positions and functions;
- XIII. have on the organization of the framework for their servers, establishing career paths, the direct administration, local public foundations and the Federal District; pay and single legal regime of the servers;
- XIV. exercising the powers of police administration;
- XV. license an industrial, commercial, service and similar or revoke the license of the license to become harmful to the environment, health and welfare of the population or that violate legal provisions;
- XVI. to regulate and enforce street trading, including paper and other recyclables;
- XVII. propose a cleaning public places, removal and fate of household waste and other waste;
- XVIII. to provide for funeral services and administration of cemeteries; Century - to provide for seizure, storage and fate of animals and goods seized as a result of violation of local laws;
- XIX. discipline and monitor, within its competence, sports competitions, concerts, entertainment and public events of a similar nature conducted in public places;
- XX. provide for the use of roads and public places;
- XXI. discipline the local traffic, signaling the urban streets and highways of the Federal District;
- XXII. perform inspection and sanitary inspection of environmental attitude, tax, public security

and labor for the operation of a business, industrial, service and similar, within its competence, respecting the federal law;

XXIII. buy goods, including through expropriation, by necessity, utility or social interest, under the legislation;

XXIV. license the construction of any work;

XXV. ban buildings in disrepair, unsanitary conditions and having the irregularities specified in the legislation and to demolish buildings that threaten personal safety or health;

XXVI. to provide for outdoor advertising, particularly on display posters, advertisements and other means of publicity or propaganda in public places, in public places or such visible.

CHAPTER III, Section II, Article 16

THE JURISDICTION OF THE FEDERAL DISTRICT

It is the responsibility of the Federal District, in common with the Union:

I. to enforce the custody of the Federal Constitution, this Organic Law, the laws and democratic institutions;

II. to save public property;

III. protect documents and other items of historical and cultural monuments, natural areas and archaeological sites, and prevent his escape, destruction and distortion;

IV. protecting the environment and fight pollution in any of its forms;

V. to preserve the fauna, flora and savanna;

VI. to provide the means of access to culture, education and science;

VII. to provide health care to the population and the protection and guarantee to persons with disabilities with the technical and financial cooperation of the Union;

VIII. to combat the causes of poverty, malnutrition and the factors of marginalization, promoting the social integration of disadvantaged segments;

IX. promote agricultural production and organizing the food supply;

X. Promoting housing construction and improvement of housing conditions and sanitation;

XI. to record, monitor and supervise concessions of rights to exploration and exploitation of water resources and minerals in his territory;

XII. to establish and implement an educational policy for traffic safety.

CHAPTER III, Section III, Article 17

THE JURISDICTION OF THE FEDERAL DISTRICT

It is the Federal District, concurrently with the Union to legislate on:

I. tax, financial, penitentiary, economic and urban;

II. the budget;

III. Board of Trade;

IV. the cost of forensic services;

V. production and consumption;

VI. savannah, hunting, fishing, wildlife, nature conservation, protection of soil and natural resources, environmental protection and pollution control;

VII. Protection of historical, cultural, artistic, agricultural and tourist;

VIII. liability for damage to the environment, and consumer goods and rights of artistic, aesthetic, historic, cave exploration, tourism and landscape;

- IX. education, culture, education and sport;
- X. social security, protection and defense of health;
- XI. legal under the legislation in force;
- XII. protection and social integration of persons with disabilities;
- XIII. protection of children and youth;
- XIV. maintaining order and internal security;
- XV. procedures in procedural matters
- XVI. organization, guarantees, rights and duties of the civil police.

§ 1 The Federal District, in the exercise of supplemental jurisdiction, will observe the general rules established by the Union

§ 2 If there is no federal law on general rules, the Federal District shall exercise full legislative competence to meet their peculiarities.

§ 3 The occurrence of federal law over general rules suspending the effectiveness of local law, as it is otherwise.

CHAPTER IV, Section I, Article 17

PROHIBITIONS

It is forbidden to the Federal District:

- I. establish religious cults or churches, subsidize them, embarrass them or keep working with them or their representatives relations of dependence or alliance, except, as provided by law, the collaboration of public interest;
- II. refuse to honor public documents;
- III. to subsidize or assist in any manner, at public or the press, radio and television service, speaker or any other means of communication, political propaganda or partisan purposes other than public administration;
- IV. donate your property or assets Constitute real burden on them, and to grant tax exemptions or debt, without the express permission of the Legislative Chamber, on pain of nullity of the act.