

The District of Columbia and Its Lack of Representation in Congress: What Difference Does It Make?

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EXECUTIVE SUMMARY

1. Introduction

Representation underpins the American democracy. Yet, residents of the nation's capital lack full representation before Congress. So what? Does it matter? Do the laws passed by Congress differ substantively and substantially because the District of Columbia lacks full representation? Has the lack of full voice in Congress rendered the District and its citizens worse off?

This report addresses the substantive policy implications of the District's underrepresentation in Congress. It examines the implications from a variety of angles including the distribution of power within Congress, the ability of the District to stop unwanted federal legislation, the ability of the District to garner useful benefits from the federal government, the ability of District residents to receive help with their federally-related problems, the impact of the District's status on the political participation of its citizens, and a comparison of the District's representation in Congress to the national capital cities in all the world's democracies.

2. Institutional Power and the District's Representation in Congress

This section provides an overview of the rights and powers of the DC delegate with an emphasis on committee membership and opportunities for leadership positions. In addition the section explains how the U.S. Senate differs dramatically from the House, especially in the way it protects small states.

Within the rules of the U.S. House the DC delegate (as well as the various territorial delegates) enjoy most of the same formal rights and powers as regular representatives. Delegates serve and vote on committees, can serve as committee and subcommittee chairs, and receive about the same representational allowance as regular members. Notably delegates have only what amounts to symbolic voting powers at the chamber level. Delegates also do not fully participate in the election of the Speaker, cannot act as presiding officers, cannot sign petitions to discharge legislation from committee, and cannot offer motions to reconsider a vote on a measure.

Generally speaking the crucial business of the House goes on in committee. No delegate – either from DC or one of the territories – has ever served on the most coveted and powerful committees, such as Ways and Means or Appropriations. In contrast, many

representatives from small states have served on these key committees. (See Table 1 in the main report.)

Delegates are not prevented from serving as full committee or subcommittee chairs. No DC or territorial delegate has ever served as a full committee chair. However, no delegate with the necessary seniority or party status has been skipped over for a chairship. Many delegates have served as chair of a subcommittee. This includes both the current and former DC delegate. (See Table 2 in the main report.)

Does it matter that the DC delegate lacks a full vote on the House floor? The report provides a mixed answer on this front. Determined majorities manipulate the rules to limit the impact of individual votes. This effectively limits the importance of individual voting power. However, lacking the vote helps delegitimize the delegates in subtle ways and lacking the vote prevents delegates from vote trading for present or future considerations in return.

The respective party caucuses do treat delegates as full members. This is important as the caucuses – especially the majority party caucus – are forums for crucial policymaking decisions in the House. Notably it is within the caucus that party leadership decisions are made. Delegates vote on these party leadership positions. Indeed, Rep. Eleanor Holmes Norton (D-DC) was an important supporter in the leadership race that ultimately led to Nancy Pelosi's (D-CA) election as Speaker.

The District of Columbia lacks representation in the United States Senate. The Senate is enormously important in the American political system and the typical senator wields far more power than the typical House member. The power of individual senators derives not so much from their fewer numbers, but from the way Senate procedures enable individual senators to obstruct the legislative process. This ability gives individual senators considerable leverage to protect his or her state from legislative harm and obtain for his or her state a fair share of federal largesse.

The report lays out in detail ways that lacking even a single senator undermines District influence over federal legislation. While its representation in the House provides the District some minor influence over legislation, it utterly lacks influence in the areas that the House does not affect: federal treaties, confirmation of executive branch appointees, and confirmation of judicial branch appointees. This latter limitation is especially telling as individual senators through senatorial courtesy have direct influence over the appointment of federal judges who oversee the courts in their states. Unlike every state, the District has no say over who is appointed to sit on the relevant federal district court and appeals court.

Finally, the nature of the U.S. Senate provides special advantages to small states, advantages that the District would enjoy were it a state. On a per capita basis small states fare better than big states in obtaining federal funding. Small states also are more likely to produce senate leaders. For example, all the Senate Majority Leaders since 1970 came from a small state with the exception of two leaders from mid-sized Tennessee.

3. An Overview of Representational Scenarios

To provide context for much of the report this section describes several different representational scenarios that might apply to the District. These include upgrading the delegate position to a regular representative, allowing DC citizens to vote in Maryland elections, or giving the District full representation of its own in both the House and Senate. Rather than focus directly on the legal and political hurdles facing adopting any of these scenarios, the report addresses some issues related to what would happen in each scenario if it were adopted.

The most likely scenario is the one currently under debate: converting the DC delegate to a full-fledged member of the House. Current legislation before Congress would achieve this by expanding the House to 437 representatives, with the District receiving one representative and Utah receiving the other (at least until the next decennial redistricting).

Under this scenario the restrictions on the DC delegate described earlier will be lifted. However, under the proposed law the District could not expand its delegation beyond the one representative, even if eligible by population to do so. Realistically this is a weak constraint as the District would have to grow at an incredibly dramatic pace to ever reach the two-representative threshold. The smallest state to receive two representatives after the 2000 Census was Rhode Island with its 1,048,319 residents. The District's population in that census was 572,059. (See Table 3 in the main report.)

Inclusion of District voters in Maryland elections, presumably through retrocession, raises questions about the size of the overall House delegation and the drawing of district lines for House elections. In the short run, adding the District's population to Maryland's will increase Maryland's delegation by one seat to nine. Also Maryland voters will see the average size of their congressional districts decrease, thus the typical Maryland voter will share a representative with fewer people. (The long run impact on delegation sizes will depend on Maryland and District population growth.) This assumes that the District will not be a stand-alone congressional district.

Adding the District's heavily Democratic voters will make Maryland a more solidly Democratic state. It seems likely that eight of the Maryland/District House seats will be safe Democratic seats and Democrats will increase their hold over the two U.S. Senate seats. Based on recent turnout numbers, District voters will comprise about 12% of the electorate in Maryland's state Democratic primary. While this will not give District voters the dominant say in the nomination of Maryland's senators (or other state seats), it will give District voters substantial influence; candidates for office will quickly recognize the need to curry favor with District voters.

The final scenario considered in the report is that the District receives full representation in both the House and Senate. Presumably this would occur through statehood and/or a Constitutional amendment. Under this scenario the District receives two senators. Barring radical increases in the District's population or increases in the size of the House

of Representatives, the District will receive only a single House representative for many decades. Giving District voting trends, both Senate seats and the House seat will be held by Democrats for the foreseeable future.

4. Policy Benefits of Negative Power

Policymaking can be as much about stopping a policy that hurts one's constituency as it is about creating a policy that helps one's constituency. The ability to stop or obstruct unwanted policies is a *Negative Policy Benefit*. Under the U.S. Constitution Congress has the legal authority to dictate policy to the District. Yet, in American politics legal authority does not necessarily translate into the political power. Congress's broad legal authority in regard to the District under current constitutional and statutory law is not under question. The point of this section, however, is to approach the District-Congress relationship from the perspective of representation. Regardless of Congress's legal authority over District policy, how would congressional actions change if the District had full representation in Congress?

Over the period 1995-2008 Congress imposed a large list of policies on the District. A few examples of major policies include limitations on the power of the DC delegate, prohibitions of domestic partner benefits, restrictions on the District's political efforts, creation of the Control Board, restrictions on abortion, and prohibition of needle exchange programs. (See Table 4 in the Main Report for a longer list of major laws imposed on the District by Congress.) Aside from outright interference by Congress is a deterrence effect where the threat of congressional action alone prevents the District government from acting on a given issue. (A classic example is the recognition of gay marriages from other states.)

Congress uses the District as an arena for the contentious social issues of the day. Imposing these policies on the District gives members of Congress a low cost, low risk way to claim credit with important constituencies, at home and across the nation. Similarly Congress likes to use the District as a laboratory for experiments in policymaking.

The report argues that few if any of the major legislation imposed on the District would have happened if the District had representation in the U.S. Senate, either on its own or as part of Maryland. Senators can fight fire with fire. Any senator who tried to impose the sorts of policies seen in the report would have faced a future of objections to his or her requests for unanimous consent, as well as holds and filibusters against pet legislation. By and large senators who interfere with another senator's constituency quickly find it hard to serve their own constituents. Likewise restrictive measures originating from the House would face serious procedural obstacles once they reached the Senate.

5. Positive Power and Distributive Benefits to the District

Every year all the members of the House and Senate aggressively pursue pieces of the huge federal funding pie for their individual constituencies. Given its lack of institutional leverage in Congress how well does the District of Columbia fare in the pursuit of federal support? This report examined a small piece of federal funding: the distribution of earmarks for higher education. Over the last two decades the amount of earmarks directed towards higher education has sky-rocketed and many colleges and universities rely on earmarks to fund critical aspects of their research and teaching missions.

The District's colleges and universities suffer a major disadvantage in the competition for earmarks. Local universities, most notably Georgetown and George Washington, carefully cultivate relations with alumni who serve in Congress. Yet while the alumni of these universities may help, they have no electoral connection with District universities. Their incentives to help are limited. It is not an accident that both Georgetown and George Washington universities now have substantial campuses in Virginia.

The report demonstrates that overall the District fares from the middle to the bottom of the states in garnering earmarks over the last decade or so. Georgetown accounts for most of those earmarks. A statistical model in the report demonstrates that expressly political factors, such as a state's presence on the Appropriations Committee, largely determined the distribution of higher education earmarks. Factors more directly related to the nature of a state's universities – such as the number of students or the number of research universities – proved unimportant.

The model predicts that the District would receive far more in higher education earmarks each year if it had representation in the Senate. For example, representation in the Senate including a member on the Senate Appropriations Committee would yield a predicted \$2 million more per year just in higher education earmarks. Higher education earmarks are just a slice of just a slice (all earmarks) of federal spending (now more than \$3 trillion per year). But how higher education earmarks are distributed gives us a nice window into the larger spending picture. While the District of Columbia perhaps does better than expected given its dearth of representation in Congress, it does far worse than it could if it had full representation in the Senate.

In the interests of fairness and completeness the report also identifies legislation that Congress passed that was directly beneficial to the District. For example, the District of Columbia College Access Act makes some District residents eligible for in-state tuition at public universities around the nation. The Revitalization Act is another example though it came with strings attached that would not have happened if the District had fuller representation in Congress.

6. Constituency Service and Extra-Constituency Representation

Congressional observers naturally focus on the explicitly policy-related actions of legislators, such as their roll call votes and the legislation they sponsor or co-sponsor. Less publically visible is the constituency service role that members of the House and Senate play. Voters frequently turn to their representative or a senator for help negotiating bureaucratic red tape or resolving problems with federal benefits. The specific problems vary considerably but family immigration issues, veteran's benefits, social security, Medicare and Medicaid, government regulation, and taxes generate an enormous amount of casework for members of Congress and, especially, their staffs.

District residents suffer an enormous disadvantage when it comes to seeking assistance from the federal government. A resident of a state has three federal legislators to help. However, since members of Congress rarely render aid to non-constituents, residents of the District can turn just to their single delegate. A small state such as Wyoming has a far lower residents-to-legislator ratio (164,594) than the District (572,059). Thus Wyoming's federal delegation (as well as the federal delegations from most other states) carries a much lower potential casework burden than the DC delegate. Looking at the monetary allowances given members of Congress to represent their constituents reveals an even more dramatic disadvantage for the District. In 2008 Congress allocated a representational allowance of \$2.31 for each DC resident. For Wyoming it was \$13.38 per resident (see Table 10 in the main report). Adding DC voters to Maryland or giving the District full representation in Congress would dramatically lower the District's disadvantage.

The DC disadvantage is even worse than the federal numbers suggest. Citizens of states have a multi-layered representational government extending from city councils to county commissions to state legislatures to the congressional delegation. For the District this is all compressed into a city council and the DC delegate. Consequently both the city councilors and the DC delegate find themselves addressing the types of issues usually handled by other governing actors, such as state legislators.

Observers and sometimes even members of Congress claim that the District already enjoys exceptional levels of representation given that all 535 members of Congress work in the District and many of them live there part-time. No doubt some members of Congress do develop an interest in District affairs. But the notion that members of Congress act in any substantive capacity as *representatives* of District interests contradicts the basic design and practice of the American legislative system.

To achieve any of their goals as a legislator, members of Congress must first get re-elected. The re-election motive forces legislators to hew closely to the parochial needs and interests of their districts. This parochial focus limits the ability of legislators to accommodate the views and needs of non-constituents. DC residents collectively lack the fundamental currency necessary for influence over members of Congress, the ability to hire and fire these representatives through the vote.

7. Political Participation and Ambition in the District of Columbia

Political participation takes many forms but voting is the crucial tool given to us by the the writers of the Constitution. Turnout in the United States is generally low, but it varies from election to election. One major factor that influences turnout levels is the importance of the offices on the ballot. Presidential elections produce the highest turnout by far. In midterm elections the presence of a U.S. Senate race on the ballot boosts turnout in both primary and general elections. Thus it is reasonable to conclude that the lack of senate races suppresses District voter turnout somewhat. Likewise it may be the case that the lack of a regular representative in the U.S. House somewhat suppresses turnout as well.

It may also be the case that the District's lack of political opportunities deters some from entering public service. The DC Mayor and the DC delegate represent the pinnacle of a very sparse set of elective targets available in the District. We know from political ambition theory that the choice to run for office is greatly affected by the opportunity structure. If few opportunities exist then the ambitious will choose to do something else.

8. The District and Presidential Elections

District of Columbia residents do participate fully in presidential elections. The 23rd Amendment gives District voters three votes in the Electoral College. (Were the District a state it still qualify for just three electoral votes due to its small population.) While the District population makes up only 0.20% of the nation's population, its percentage of the Electoral College is 0.56%. Thus the District is *relatively* advantaged – almost three times more advantaged – under the current system than it would be were the nation to shift to a direct popular vote. That said, the states that receive attention (and promises) from presidential candidates are the states that are competitive, especially the states that are both competitive and large. The District is neither large nor competitive and thus receives no attention in the general election. Likewise, despite past efforts to enhance its impact on the Democratic nomination campaign, the District's small size and late placement on the primary calendar render its voters insignificant. Thus the District lacks significant influence over presidential nominations and elections.

9. Representation in National Capitals

According to Freedom House there are 90 democracies in the world today. Of those 90 democracies only the United States denies its capital residents full representation before its national legislature. Of those 90 democracies only the United States restricts the legislative authority of its capital representatives. Finally, other democracies that once restricted representation for their capital residents largely removed those restrictions. The last holdout was Brazil which granted full representation to the citizens of Brasilia in 1986.

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1. Introduction

It was no accident that the writers of the U.S. Constitution put the legislative branch at the beginning of the document. Immediately following the brief Preamble, Article I creates the foundation of a *representative* democracy, a Congress composed of persons chosen by their fellow citizens to “stand” in their stead and create policy in their interests. Creating a large scale democracy was an audacious and radical step in the 18th century, yet by modern standards the founders held an exceedingly narrow view of representation as they limited the franchise to white male landowners. Over time the franchise expanded, and as a consequence representation in the United States expanded.

A key set of Americans continue to lack full representation in Congress. These are the residents of the District of Columbia. While District citizens are now able to vote for president, their representation in Congress is limited to a single delegate to the House of Representatives. This delegate enjoys many of the same powers and privileges as regular members, but lacks full voting rights. Perhaps more crucially, the District has no representation at all in the United States Senate.

The purpose of this report is to ask and at least partially answer the question: What difference does it make? What are the policy and political consequences for the District given its level of representation in Congress? The intent of the analysis is to focus strictly and narrowly on the representation question with an emphasis on relatively recent history. Where useful and practical the study also presents counterfactual arguments about how circumstances would likely differ under others representational scenarios such as: 1) granting the DC delegate full status in House; 2) retrocession to Maryland; or 3) full representation in the House and Senate (through statehood or other means).

The report addresses four different aspects of representation as it relates to Congress:

- Institutional Power;
- Policy Benefits Stemming from Negative Power;
- Policy Benefits Stemming from Positive Power;
- Constituency Service and Extra-Constituency Representation.

Institutional Power refers to the power that a member of Congress (delegate, representative, or senator) wields within the given chamber. We cannot measure power directly, but we can look at indirect measures such as committee membership and attaining leadership positions. As I discuss below, especially in the U.S. House of Representatives, committees are central to policymaking and some committees are more important than others. In the analysis that follows I track the committee membership of the DC delegates over time and compare them both to the territorial delegates and to representatives hailing from small states. I also track leadership positions to see if there is evidence that Congress limits the ability of DC delegates to obtain committee and subcommittee chairships or gain party leadership slots. Additionally I evaluate the relevance of the roll call vote within the context of House of Representatives procedures. That is, what is the substantive and symbolic importance of the roll call vote limitation faced by the DC delegate? Since DC lacks representation in the Senate, I discuss the consequences of this by articulating the various ways a typical individual senator has power in that institution and over policymaking.

From a general perspective policy benefits take on two forms: negative and positive. (Note that negative in this context does not imply bad.) A *negative policy benefit* occurs when a legislator obstructs or greatly modifies legislation unwanted by the constituency. A *positive policy benefit* occurs when the representative helps pass legislation beneficial to the constituency, e.g., obtaining adequate federal funding for the costs associated with presidential inaugurations. Both these benefits are crucial results of representation. Indeed, arguably the most common complaint District residents make about the current arrangement is the inability of the District to stop Congress from imposing laws on the District against the will of the locally elected government and the general District populace. It is important, then, to evaluate the effect different representational schemes are likely to have on negative and positive policy benefits.

In the analysis I address the conditions that make negative and positive benefits more or less likely. I present a census of the District-specific legislation Congress has passed over the last ten years that restricts District autonomy or otherwise conflicts with the preferences of its citizens and leaders. With this survey I then consider how the legislative outcomes likely would have differed had alternative representative schemes been in place at the time. The report then goes on to examine a very specific sort of positive benefit: the provision of distributive dollars to the District. Every year Congress allocates millions of discretionary dollars for local concerns. The purposes are wide-ranging but include money for transportation infrastructure, earmarks for university programs, military contracts, money for first responders, support for agricultural production, environmental clean-up, and much more. Substantial amounts of research has given political scientists a clear understanding of the factors that influence the amount of such spending that accrues to different districts and states because of the characteristics and behavior of legislators. Looking specifically at money for higher education, I develop a model that predicts the distributive dollars the District would receive with fuller representation and compare those predictions with reality.

Constituency Service and Extra-Constituency Representation addresses the often overlooked aspect of congressional representation in the ombud's role that members of the House and Senate play in helping solve specific problems constituents face, such as difficulty receiving eligible federal benefits. How does the District's limited presence in Congress affect this sort of representation? The report also examines the logical underpinning of the claim that the District is actually overrepresented, since 535 members of Congress work in the District and many of them reside in the District, at least part time.

The report moves beyond a focus on just Congress and addresses the District's relationship with the executive branch, through an examination of the District's actual and potential impact on presidential elections. Finally, the report places the U.S. arrangement within an internationally comparative context by examining the representational circumstances of the residents of all the other capital cities in the world's democracies.

This report's narrow focus on recent history makes it possible to identify discrete, concrete implications for the District. Yet such a focus necessarily ignores the broader effects of more than two hundred years of congressional action (and inaction) directed towards the District. While I suspect that most observers would agree that the District would be a different place today if it had full representation from its creation, explaining in concrete terms exactly *how* the District would be different is an altogether different matter. Such an analysis would build counterfactual upon counterfactual in intellectually indefensible ways. Similarly, I seek to isolate as much as possible the representation question from other aspects of the history, politics, and economics of the United States and the District. For example, this report does not directly address the critical question of the District's poorly defined place within the U.S. federal system. Under the U.S. Constitution, states have rights, powers, and responsibilities. The District, in contrast, has most of the responsibilities of statehood, but lacks the rights and powers of statehood protected by the Constitution. A prominent example is the power to tax workers who reside in other states. Many states tax those who work in the state, but reside outside of it, e.g., New York City employees who live in Connecticut are taxed by New York state. Federal courts have held that the Constitution does not grant the District the authority to tax non-residents who earn income in the District. That authority can only come with congressional permission, something Congress refuses to do.

The powers and rights held by the District are those granted by Congress. In this sense Washington, DC resembles other local governments throughout the United States. Towns, cities, and counties located in the fifty states largely lack constitutional rights and powers and thus only enjoy those rights and powers granted to them by their state governments. So, if we think of the District as really more of a city than a pseudo-state, then it is not necessarily disadvantaged relative to other local governments. A crucial difference, of course, is that all the local governments in the fifty states have representation in their state legislatures and in Congress. Likewise, cities in the various states do not by themselves bear the burden of state policy responsibilities.

Excepting some of Section 2 on institutional authority, this report largely ignores the United States territories that also send non-voting delegates to the U.S. House.¹ In at least one respect these territories have less representation than the District since they lack voting rights in the presidential general election. (They do send delegates to presidential nominating conventions.) While a similar analysis of representation as it affects these territories would be a very interesting exercise, the circumstances of these territories differ dramatically from the District's. For example, at the moment all five of the territories are unincorporated, thus legally defined more as a U.S. possession and not insular to the United States in quite the same way as the fifty states, the District, and Native American reservations.²

The report proceeds as follows:

- *Section 2* provides an overview of the District's representation in Congress. This includes a brief historical summary followed by a series of discussions pertaining to institutional power including committee service, committee leadership, party leadership, the relevance of the roll call vote, and powers held by U.S. Senators.
- *Section 3* lays out three different "representational scenarios" that may apply to the District and the future.
- These scenarios help inform *Section 4* which addresses negative policy benefits by providing an overview of all legislation and appropriation's riders since 1995 that undercut District autonomy.
- *Section 5* addresses positive policy benefits by identifying all higher education earmarks that went to the District between 1994 and 2003. These are contrasted against statistical models that predict how much the District would get under different scenarios.
- *Section 6* considers the often overlooked question of how the District's lack of full representation in Congress undercuts constituency service. The section also addresses the question of "extra-constituency" representation and whether the District actually enjoys more representation than other parts of the nation.
- *Section 7* examines the question of how does the District's lack of representation in Congress affect the political participation of District residents, including voting turnout and running for higher office.
- *Section 8* veers away from the topic of congressional representation to address the District's influence on presidential elections via the presidential nomination process and the Electoral College.
- *Section 9* compares the District's representation with that of all other capital cities in every democracy in the world.
- *Section 10* concludes.

¹ Northern Mariana gained a delegate in the 111th Congress. The other territorial delegates represent American Samoa, Guam, Puerto Rico, and the Virgin Islands.

² An interesting way that these territories differ from the District is that residents are exempt from federal income tax and each territory can send its own team to the Olympics. Perhaps a more suitable goal for District citizens would be to give up on statehood and pursue unincorporated territory status. The Olympics and lack of income tax would surely create a major draw for new residents.

2. Institutional Power and the District's Representation in Congress

2.1 Creation and Powers of the Delegate

With one brief exception, the District of Columbia lacked any direct representation in Congress prior to 1971.³ The District of Columbia Delegate Act of 1970 created the seat of “Delegate to the House of Representatives from the District of Columbia.” The key statutory language stated:

The Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting, shall have all the privileges granted a Representative by section 6 of Article I of the Constitution, and shall be subject to the same restrictions and regulations as are imposed by law or rules on Representatives. The Delegate shall be elected to serve during each Congress (P.L. 91-405, 84 Stat. 845).

Thus at the outset the DC delegate lacked any floor voting rights, but otherwise *largely* held the same “privileges” and faced the same “restrictions and regulations” as regular members of the House.

Currently, the DC delegate and the territorial delegates can serve on committees, vote on committees, accrue seniority on committees, serve as chairs of committees, write and introduce legislation, serve on conference committees, and engage in debate on the chamber floor. They also receive budget funds – known today as the Member’s Representational Allowance (MRA) – to serve constituents, hire staff, travel, pay for congressional district office space, pay publishing and reproduction expenses, and frank mail. MRAs for all members of the House – delegates and representatives – are adjusted by congressional district population, distance from the District of Columbia, and congressional district cost of living (Young 2008).

While all delegates began with no floor voting rights at all, during the 103rd Congress (1993-1994) the Democratic majority granted all five House delegates limited floor voting rights in Congress. Since all five delegates in the 103rd House caucused with the Democrats, the Republicans bitterly complained that the majority was engaging in a form of vote stacking (Teitelbaum 2007). The Republicans secured majority control at the start of the 104th House (1995-1996) and immediately revoked the voting privileges for the delegates. After retaking the majority for the 110th House (2007-2008), the Democrats reinstated the same limited delegate voting rights (Teitelbaum 2007).

Under current House rules, the (now) six delegates may cast non-decisive roll call votes in the Committee of the Whole. The Committee of the Whole is a procedural circumstance under which the entire House chamber operates within a set of less formal,

³ For two congresses in the 1870s the District was granted a delegate. Norton Chipman filled the position (Fauntroy 2001).

more flexible, and generally less time-consuming procedures (Oleszek 2007). Typically, the bulk of debate and amending of important legislation (appropriations, tax measures, and major authorization bills) occur in the Committee of the Whole. Delegates may cast votes in the Committee of the Whole. However, if the delegates' votes prove decisive to the outcome then House rules require a revote without delegate participation. (This happened three times in the 103rd Congress [Marwill 1994; Davis 2007], but apparently did not happen in the 110th Congress.) Furthermore, the final few steps towards passage of legislation require the House to rise out of the Committee of the Whole and reconvene as the full House under the more formal rule structure. Regardless of whether their votes are decisive, once the House rises the delegates are not allowed to vote.

Delegate voting powers are thus circumscribed and largely symbolic. Note that these voting rights come wholly at the pleasure of the majority party in Congress. As was seen in the 104th Congress, a majority can strip away the voting rights quite easily.

Finally, there are other limitations on the delegates. Delegates do not participate in Speaker elections, they cannot act as presiding officers, and they cannot offer motions to reconsider a vote on a measure. Also, delegates do not have the power to sign petitions to discharge legislation held up by a committee (Davis 2007).

While the above lays out the basic rights and powers of delegates, it tells us little about the practical implications of those rights and powers. What difference do the above powers make for delegates in the House, especially the DC delegate? How much does the lack of floor voting rights matter? What power do delegates have on committees, etc?

2.2 Committee Membership

Prior to the 1970s, territorial delegates were allowed to serve on committees as "additional members" without the right to vote or accrue seniority. The Legislative Reorganization Act of 1970 granted the Puerto Rican delegate,⁴ "the right to vote in any committee on which he was elected to serve, to accrue seniority, and to assume a leadership post within any committee" (Peterson 2005: 5). Later delegates who entered the chamber – including the District of Columbia delegate – enjoyed the same rights.

In the 1880s Woodrow Wilson (1956: 69) wrote, "...it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work." He referred mainly to the House of Representatives, rather than the Senate, and more than a century later his observation remains not far from the truth. Most of the key work in the House takes place in committee. Committees are the main gatekeeper force in the House. After being introduced by a member, legislation is referred to a committee where, far more times than not, it vanishes from sight. For example, in the 109th Congress (2005-2006) 8,154 bills and resolutions were introduced

⁴ Technically the Puerto Rican delegate holds the title "Resident Commissioner." The position has a long history in Congress though within Congress it differs from the other delegates only in its term of office, which is four years rather than two (Petersen 2005).

in the House. Only 679 -- about 8% -- were reported out of committee (*Congressional Record* 2006a 2006b).

For the lucky few bills that do receive serious attention, it is the committee stage where typically most of the real legislative work occurs. It is here where the devil's details get made, compromises occur, and coalitions form. In contrast, much of the floor stage is highly manipulated and structured. From a visual standpoint the floor stage consists mainly of staged speeches put on for the viewing audiences in the chamber and on C-SPAN, as well as the future readers of the *Congressional Record*. Because of television, "Congress in session" today is even more "Congress on exhibition" than in Wilson's time.

Given the importance of committees, the fact that delegates seemingly enjoy the same rights and powers of committee service as regular members of the House is crucial. Yet, in terms of power or importance not all committees are created equally. Some have more institutional power than others, some deal with more salient policy areas than others, and some are more attractive for member service than others. Some committees are all three. Do delegates get to serve on the most important committees? In addition, not all positions on any given committee are equally powerful. On all committees and subcommittees the key power positions belong to the chairs. Have delegates been prevented from serving as chairs?

Prior to each Congress, the leaders from both parties reach agreements on the size and party ratios on each committee. Party leaders then fill the committee slots not taken by members already on the given committee. Legislators submit their committee requests to their leaders and lobby for them (Frisch and Kelly 2006; Shepsle 1978). A legislator's committee preferences are affected by such factors as constituency characteristics, policy interests, and ambition for power within the institution or ambition for higher office (Fenno 1973). However, the requests are just part of what goes into the actual allocation of positions. A variety of political and practical forces, such as more demand than supply for some committees, influence the choices leaders make (Young and Heitshusen 2003).

Table 1 ranks the committees in existence during the 92nd – 110th (1971-2008) congresses by most to least coveted.⁵ For example, the Ways and Means committee – which addresses issues such as taxation, numerous trade issues, Medicare, TANF, social security, and other entitlement programs – is consistently the most coveted committee in the House. Far more members would like to be on this committee than can be on it, and members tend to not leave the Ways and Means committee for service on other committees.

⁵ Rankings are taken from Edwards and Stewart (2006) and based on a method developed by Groseclose and Stewart (1998). In essence the rankings were created by tracking where members transferred their committee membership. For example, a member switching from Resources to Ways and Means suggests that that members value the latter committee more highly.

Table 1
Delegate and Small State Membership on House Committees, 1971-2007

Committee	Committee Popularity Rank	Committee Type	Delegates on Committee	Small State Members on Committee
Ways & Means	1	Prestige	0	2
Appropriations	2	Prestige	0	3
Energy and Commerce	3	Prestige	0	2
Rules	4	Prestige	0	0
Foreign Affairs	5	Policy	7	2
Armed Services	6	Constituency	6	0
Intelligence	7	Policy	0	1
Judiciary	8	Policy	0	1
Homeland Security ^b	9	Policy	2	1
Transportation & Infrastructure	10	Constituency	4	6
District of Columbia ^a	11	Policy	2	1
Oversight & Government Reform	12	Policy	1	2
Budget	13	Prestige	0	2
Post Office & Civil Services ^a	14	Constituency	2	2
Financial Services	15	Policy	2	2
Science & Technology	16	Constituency	0	2
Natural Resources	17	Constituency	17	14
House Administration	18	Institutional Service	0	0
Education & Labor	19	Policy	8	3
Standards of Official Conduct	20	Institutional Service	0	1
Agriculture	21	Constituency	3	11
Veteran's Affairs	22	Constituency	1	4
Merchant Marines & Fisheries ^a	23	Constituency	3	1
Small Business	24	Constituency	5	4

Notes: Ranking is based on Edwards and Stewart (2006). Committee names change from time to time. The names used here are based on the 110th House (2007-2008). Other than Intelligence only standing committees are included. The Committee on Internal Security was abolished in 1975 and is not included in the table.

^a District of Columbia, Merchant Marine, and Post Office were abolished in 1995.

^b Homeland Security became a standing committee in 2005.

The table also places each committee into one of four general categories: prestige, policy, constituency, and institutional service.⁶ The prestige committees are viewed by many in Congress as the most powerful and centrally important committees in Congress. For the

⁶ These categories are adapted and updated from Smith and Deering (1990) and Deering and Smith (1997).

most part the policy committees focus on a general issue area and attract “policy-oriented” legislators. The constituency committees generally produce policies that concentrate benefits on narrow constituencies, such as farmers (Deering and Smith 2007:63-74). Finally, the institutional service committees primarily provide services to the institution of Congress (Standards of Official Conduct, for example). These committees are not particularly prestigious, policy-oriented, or good for constituency service.

In practice, if a member wants to serve on a given constituency or policy committee, she will get assigned to that committee immediately or within a short period of time in Congress. Some of the higher demand policy committees and the prestige committees pose a much greater challenge. Do delegates secure these higher demand committees?

From 1971 through 2008, 21 people served as delegates from the District and the territories. Typically both delegates and regular members of the House serve on multiple committees. This helps explain why the 21 delegates filled a total of 63 committee slots during the period. As we can see in Table 1, no delegate has ever served on any of the top four most coveted committees: Ways & Means, Appropriations, Energy and Commerce, and Rules. However seven different delegates served on Foreign Affairs and six served on Armed Services, the sixth and seventh most coveted committees, respectively. The four top coveted committees are also prestige committees. In addition to these four, the Budget Committee is considered a prestige committee and no delegate has served on the Budget Committee.⁷

Table 1 also indicates that delegates tend to end up on constituency committees rather than policy committees. The Natural Resources Committee holds jurisdiction over the territories thus making that committee attractive to territorial delegates.

Given the complete dearth of delegates on prestige committees paired with the tendency for delegates to serve on the middle-to-least coveted committees, can we conclude that delegates are discriminated against in their committee assignments? The evidence is not definitive. Twenty-one delegates over a thirty year period is not a large number. Given the general rarity of open prestige-committee seats, and the intense competition for those seats, it simply may be difficult for delegations of one (in each territory) to secure plum seats. Indeed, there is substantial evidence that large state delegations use their size to secure top committee assignments for members from their delegations.

To get a bit more leverage on the question, I compared the delegate assignments to the assignments for regular members from five small states for the same period. All of the states – Alaska, Montana, North Dakota, South Dakota, and Wyoming – had a single representative for some part of the study period, though in some years some of the states had two representatives. Table 1 shows the seat assignments for the twenty-seven small state representatives who served from 1971-2008. The distribution looks considerably

⁷ Due to changes in Congress over the last decade the Budget committee has declined in importance and thus demand for membership on the committee has declined. However, for the most of the period in the study the Budget committee was in very high demand (Edwards and Stewart 2006).

different. Small stateres are dispersed across the full range of committee desirability and seven of these representatives served on the top four most coveted committees. A total of nine small state representatives served on the five prestige committees.

The ability of small state members to garner top committee assignments where delegates fail does suggest that delegates are systematically disadvantaged in committee assignments. It is hard to believe that the difference stems simply from the caliber of the individuals who served as delegates, many of whom over the years have exhibited quite astute political abilities.

2.3 Committee Leadership

Aside from committee membership is the question of committee leadership. Full committee and sub-committee chairs in Congress wield considerable power over legislation that falls within their jurisdictional grasp. Committee and sub-committee chairships in the House go only to members of the majority party.

Full Committee Chairs

Among majority party members, the gavel generally goes to the member with the greatest amount of seniority *on the given committee*. An exception might occur when the more senior member is already a chair elsewhere. A more important exception is that sometimes the relevant party caucuses violate the seniority norm and install someone else as chair. The seniority norm thus is not at all inviolate and its importance ebbs and flows over the full history of Congress. But in the modern Congress it is a criterion that plays an important role in chair selection.

No delegate from the District or the territories has yet to serve as chair of a full committee. However, there have been no seniority violations either as no delegate has ever been in a position to ascend to the chair based on majority party and seniority status. Walter Fauntroy (D-DC) would have forced a test of the seniority norm had he stayed in Congress longer. By the end of the 101st Congress in 1990 Fauntroy was second in seniority among Democrats on the District of Columbia committee and third in seniority among Democrats on Banking. At that point he retired to run for mayor of Washington, D.C. Had he stayed in Congress, he would have been up for chair of the District of Columbia committee after Ron Dellums (D-CA) became chair of Armed Services at the start of the 103rd Congress in 1993. Fauntroy's path to the Banking chairship would have been blocked by the more senior Henry B. Gonzalez, and by the Democratic loss of majority, unless he stayed in Congress until the Democrats regained majority status after the 2006 election.

Eleanor Holmes Norton (D-DC) replaced Fauntroy as the DC delegate starting in 1991. She was initially appointed to three committees: District of Columbia, Post Office and Civil Service, and Public Works and Transportation. At the start of the 104th Congress in 1995, the new Republican majority abolished three committees including District of Columbia and Post Office. Norton remained on Public Works and Transportation

(renamed Transportation and Infrastructure) and joined the Government Reform and Oversight committee. The 110th Congress included Democrats who were more senior than she on the abolished committees so it is quite possible she would still not chair a full committee even with the continuation of either District of Columbia or Post Office. During the 110th Congress she stood fifth in seniority among Democrats on the Transportation and Infrastructure committee.

No territorial delegates have come close to testing Congress's willingness to install a delegate as a full committee chair. During the 110th Congress Eni Fa'aua'a Hunkin Faleomavaega (D-American Samoa) was third in line on both Foreign Affairs and Natural Resources.

Subcommittee Chairs

Most committees in Congress are broken down into subcommittees tasked with covering a portion of the full committee's jurisdiction. Most legislation initially goes to subcommittees and most subcommittee chairs hold substantial policy influence. The names, jurisdiction, and even existence of subcommittees are considerably more fluid than with full committees. Also, seniority works rather differently. For Democrats during most of the period studied, gaining the chairship of a subcommittee was heavily influenced by seniority on the full committee rather than seniority on the given sub-committee. Seniority violations do occur. This is because appointments depend on the support of the full committee chair and Democrats on the full committee -- or Democrats in the full caucus -- depending on the particular committee.

Delegates have and do serve as subcommittee chairs, and I found no clear cases of more senior delegates being passed over. Table 2 lists all the DC and territorial delegates who served as subcommittee chairs. Walter Fauntroy (D-DC) chaired a Banking subcommittee in every Congress from 1977 until his retirement in 1991, excepting the 96th (1979-1980). At the start of the 95th Congress the subcommittee he chaired in the previous Congress was abolished. In the 97th Congress (1981-1982) he took control of Domestic Monetary Policy. When the Democrats formed a majority at the start of 110th Congress in 2007, Eleanor Holmes Norton (D-DC) became chair of the Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings and Emergency Management. As the table indicates, there are several other cases of territorial delegates serving as subcommittee chairs.

Overall there is little direct evidence that delegates, either from the District or the territories, suffer discrimination when it comes to committee leadership positions. True, no delegate has ever served as a full committee chair in the House of Representatives, but the simplest explanation for this is a lack of seniority among delegates. On the other hand, seniority is only one criterion that the respective party caucuses examine when choosing committee chairs. Thus, in principle, a delegate might ascend to a chair as, for example, the junior member Les Aspin (D-WI) did in gaining the Armed Services chair

Table 2
Sub-Committee Chairships Held by Territorial and DC Delegates

Delegate	Congress	Committee	Sub-Committee
District of Columbia			
Walter Fauntroy (D)			
	95 th	Banking	Historic Preservation & Coinage
	97 th	Banking	Domestic Monetary Policy
	98 th	Banking	Consumer Affairs & Coinage
	99 th	Banking	Domestic Monetary Policy
	100 th	Banking	International Development
			Institutions and Finance
	101 st	Banking	International Development, Finance, Trade and Monetary Policy
Eleanor Holmes Norton (D)			
	110 th	Transportation & Infrastructure	Economic Development, Public Buildings and Emergency Management
American Samoa			
Fofó Iosefa Fiti Sunia (D)			
	100 th	Public Works & Transportation	Public Buildings & Grounds
Eni F. H. Faleomavaega (D)			
	110 th	Foreign Affairs	Asia, the Pacific, and the Global Environment
Guam			
Antonio Borja Won Pat (D)			
	96 th	Interior & Insular Affairs	Pacific Affairs
	97 th	Interior & Insular Affairs	Insular Affairs
	98 th	Interior & Insular Affairs	Insular Affairs
Virgin Islands			
Ron de Lugo (D)			
	100 th	Interior & Insular Affairs	Insular & International Affairs
	101 st	Interior & Insular Affairs	Insular & International Affairs
	102 nd	Interior & Insular Affairs	Insular & International Affairs
	103 rd	Natural Resources	Insular & International Affairs
Donna M. Christensen (D)			
	103 rd	Natural Resources	Insular Affairs

in 1985. Campaigns for chairships tend to be rather private events, so they are hard to study. (For example, party caucuses are not subject to open meetings requirements.) Again, there is little evidence that delegates are systematically disadvantaged simply because they are delegates.

On subcommittees, the evidence is much clearer. Delegates frequently serve as subcommittee chairs in the House. Note that while I focus here on chairs, delegates often serve as ranking members on subcommittees. A ranking member is the highest ranked member of the minority party on the committee. Ranking members do not hold nearly the same formal powers as chairs but the position is more than a ceremonial designation. For example, ranking members control some committee staff positions. In the 110th Congress (2007-2008), Luis Fortuño (R-PR) served as ranking member of the Natural Resources Subcommittee on Insular Affairs.

2.4 Voting on the Floor

As noted, the D.C. delegate enjoys most privileges with the crucial exception of a decisive vote. In my view the floor vote of a lone representative in the House is overrated. Because of the way the House developed procedurally over time, determined majorities can manipulate the rules to limit the impact of individual votes. Normally the majority⁸ can structure the process in such a way as to guarantee the outcome they want, with far more room to spare than a single vote. If victory is uncertain then the majority simply prevents the bill from proceeding to the floor.

While the floor vote may be overrated, it still has value. Lacking the vote helps delegitimize the delegates in subtle ways. They are not seen as true members of the Congress. When people speak of the House they say it has 435 members, not 441. While one individual vote might not count for much, collectively votes count for a lot. Over and over again on the Hill legislators go through the painstaking process of trying to build a winning coalition for legislation. While the delegates are part of this process at the committee level, they have limited leverage on legislation that originates outside their particular committees. They have no floor vote to trade for present or future consideration in return.

2.5 Influence in Party Caucuses

Within the House the two parties organize themselves into respective caucuses (or conferences). In recent years these organizations often play crucial functions. They serve as forums for choosing agenda priorities, resolving policy differences in private, or otherwise discussing party business. Caucuses raise campaign funds, provide members

⁸ During most of the history of the United States House what I mean by “majority” is synonymous with “majority party.” Occasionally, though, it has been something else, such as the period beginning in the 1950s and ending with Watergate that saw the House controlled by a coalition of Republicans and conservative Southern Democrats.

with a variety of media and public relations services, and keep members informed on House business and relevant policy issues. Most notably the caucuses elect their party candidates for leadership positions, such as the Speaker of the House and the House Majority Leader. These leaders are formally elected on the House floor, but since these floor votes are always by party line, the critical decision points are within the caucuses. Thus, for example, the actual choice of who will be Speaker occurs in the majority party caucus.

Consequently, to fully evaluate the influence that the DC delegate has in Congress, we need to take into account the delegate's standing within the relevant party caucus. Thus far only Democrats have served as the DC delegate. Several Republicans have represented the various territories. The discussion that follows briefly summarizes current Democratic and Republican rules on the delegates as of the 110th Congress.

Democratic Caucus Rules

The crucial language relevant to the DC and territorial delegates appears in Rule 1, which defines caucus members:

All Democratic Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegates from American Samoa, the District of Columbia, Guam, and the Virgin Islands who are Members of the Democratic Party shall be prima facie Members of the Democratic Caucus of the House of Representatives.... (Democratic Caucus 2005, Rule 1, Section A).

Thus the Democratic caucus makes no formal distinction between regular representatives and delegates on membership. The caucus rules then proceeds to lay out a wide-range of rights and responsibilities of caucus members without in any way excluding delegates. This includes leadership selection. Rule 2, Section A states, "The Caucus shall nominate a candidate for Speaker and shall elect the Democratic Leader and Democratic Whip." Thus delegates participate in leadership elections. As discussed earlier, delegates do not cast votes for Speaker on the House floor, but they do so in the Democratic caucus.

Regarding chair leadership, Rule 31 expressly states that delegates can run for committee chair positions. The only place in the Democratic rules that single out the delegates as distinct from the regular members is on committee ratios. At the start of each Congress, the two parties work out the committee ratios, i.e., the number of Democrats and Republicans on each committee. Traditionally delegates are not counted in those ratios. In practice this gives the Democrats slightly more committee members than the official ratios suggest.

Republican Caucus Rules

The Republicans define caucus membership in terms similar to the Democrats:

All Republican Members of the House of Representatives (including Delegates and the Resident Commissioner) and other Members of the House as determined by the Republican Conference of the House of Representatives...shall be Members of the Conference (Republican Conference 2006, Rule 1, Section A).

Other than in regards to defining caucus membership (Rule 1, Section A), delegates delegates are not explicitly addressed in the Republican rules.

Formally the delegates have full standing in their respective caucuses. Races to fill open leadership slots usually are highly competitive in both caucuses and the support of the delegates takes on high value. For example, Eleanor Holmes Norton's public endorsement of Nancy Pelosi came at a critical time in the California Democrat's heated battle against Steny Hoyer (D-MD) for House Minority Whip in 2001 (Samuelsohn 2001). Pelosi's victory in that contest cleared the path for her ultimate rise to the Speaker's chair in 2007.

2.6 The United States Senate

Typically, the upper chamber of a bicameral national legislature is less important than the lower chamber. The House of Lords in the United Kingdom, for instance, has only limited abilities to delay or obstruct the actions of the House of Commons. In contrast, the United States Senate holds enormous legislative power within Congress and has appointment and treaty confirmation powers not shared with the House of Representatives. Thousands of presidential nominations to the Executive and Judicial branches, and all treaties, require Senate confirmation. Thus while the District has some input on legislation before Congress, due to its delegate in the House, the District lacks even limited representation on considerations of appointment confirmations and treaty approvals. On its face, its lack of presence in the Senate places the District of Columbia at a distinct disadvantage.

This disadvantage is even starker when we consider the individual power of senators within the greater chamber. The average senator has far more power, especially power to obstruct, than the average member of the House. Indeed, the most junior member of the Senate minority in some ways has more power than a relatively senior majority member of the House. This is not simply a matter of math. Sure, there are more than four times more representatives in the House than senators in the Senate, but more important is the way the chambers organize and run themselves. House rules greatly enhance the power of legislative majorities to the detriment of legislative minorities. Senate rules greatly enhance the power of legislative minorities, often to the detriment of legislative majorities. In addition, there are small state dynamics that play out in the Senate in ways that benefit smaller states, states with populations closer to the District's, than, say, to that of California or Texas.

Senate Procedure and Individual Power over Legislation and Treaties

In dramatic contrast to the House, the Senate favors deliberation over speed, and decentralized input over centralized authority. Normal business in the Senate typically occurs through unanimous consent. With unanimous consent the Senate can do anything from the routine, such as approving the daily *Journal*, to the important, such as moving important business forward in the queue, restricting debate time, and limiting potential amendment motions on legislation.

Without unanimous consent, Senate procedures are unwieldy and greatly vulnerable to dilatory and obstructing actions by individual senators. The crucial point here is that an individual senator, even one who is in the minority, even one who stands utterly alone on a given issue, can extensively delay a bill's consideration. Since few pieces of legislation are important enough to spend weeks on – given everything else on the chamber's agenda – this gives each senator significant leverage over any one piece of legislation.

While my purpose here is not to provide a detailed primer on Senate procedure,⁹ it is useful to cover a few salient topics as way to illustrate the power of individual senators.

Given Senate dependence on unanimous consent, individual senators readily recognize their own leverage. Thus even routine business finds itself sometimes held hostage by a senator seeking some gain. On more weighty business the leadership frequently finds it difficult to successfully negotiate a unanimous consent agreement (UCA)¹⁰ that substantively restricts the amendment and debate rights of individual senators. Senators can assert their rights in a variety of ways. Consider a few examples:

Non-Germane Amendments – On most types of legislation, non-germane amendments are allowed (unless prohibited under a UCA). A non-germane amendment may have little to nothing to do with the bill's topic. For example, in June, 2008 the Senate considered a mortgage relief measure and Sen. John Ensign (R-NV) attempted to add renewable energy tax breaks to the bill (Ives 2008). There are different reasons for offering a non-germane amendment. One is to simply to get a favored measure through the process more quickly. Relatedly, non-germane amendments offer a way to go around a committee that is holding up a bill. (This is part of the reason why Senate committees are less powerful than House committees; it's harder for Senate committees to block legislation.) Sometimes senators offer non-germane issues to challenge or otherwise provoke the majority. Sometimes senators offer them as an obstructive tactic. Non-germane amendments are frequently quite controversial and create conflict both within the Senate and between the House and the Senate.

⁹ For such a primer see Oleszek 2007.

¹⁰ A UCA is simply an agreement or contract among all senators about Senate procedure. Typically it applies to a matter or matters before the Senate – such as a bill or nomination – and may govern when the measure is in order, how many and what type of amendments are allowed, how much time for debate is allowed, what motions are in order, the conditions under which the measure's consideration ceases, and other issues pertaining to the aftermath of consideration (Beth 2003).

Holds & Filibusters – Bringing bills, treaties, or other matters up for consideration in the Senate usually first requires unanimous consent. An individual senator wishing to delay a measure can inform his or her party leader of intent to object (Oleszek 2007). By custom party leaders honor such “hold” requests, at least for a while, by either not bringing the motion up before the Senate chamber or by objecting if the motion is brought up by the other party. In one sense, holds help the Senate leadership know when objections will be raised, thus giving them the ability to more efficiently schedule Senate business. In another sense though, the hold custom gives individual senators an effective dilatory device. Holds enhance the power of individual senators to, at minimum, delay a measure’s consideration. Especially in the Senate, legislative delay often means legislative death. As Sen. Wyden (D-OR) once stated, “A hold in effect stops a bill dead in its tracks — in secret...” (Hulse 2007).

Holds are often the first indication of intent to use the most well-known obstructive tactic in the Senate: the filibuster. There are a variety of different delaying tactics that constitute the filibuster, but the commonest situation occurs when a senator (or group of senators) wishing to prevent a vote in the full Senate simply refuse to cease debate.

Formally overcoming the filibuster, through the cloture procedure, is time consuming and requires a super-majority of 60 votes. The dominant image of the filibuster in American culture is the climactic scene from *Mr. Smith Goes to Washington* (Capra 1939). But the filibuster today rarely requires the endurance exhibited by Jimmy Stewart’s character in the film. Under current rules filibuster tactics usually induces the Senate to move on to other business. The subject of the filibuster remains in suspended animation until the Senate leadership manages to gather enough votes for cloture, a compromise is reached with the bill’s opponents, the offending bill is withdrawn, the bill’s opponents cease the filibuster, or the Congress ends. Filibusters (or credible filibuster threats) are frequent and an effective way for a legislative minority, sometimes even a minority of one, to kill or significantly delay a bill (Bach and Beth 2003; Binder and Smith 1996).

Confirmation of Executive and Judicial Nominees

Thousands of presidential nominations to the Executive and Judicial branches of government require Senate confirmation. The House plays no direct role in confirming these appointees, thus the District’s delegate has no influence over their confirmation. For executive branch appointees, individual senators can and do make use of holds and filibusters. Senators place holds against nominees for one of at least three reasons: because the senator dislikes the nominee, such as with Barbara Boxer’s (D-CA) hold against controversial UN Ambassador nominee John Bolton (Epstein 2005); because the senator seeks a concession from the nominee, such as Sen. Boxer’s effort to force EPA Director nominee Stephen Johnson to promise to drop a controversial EPA program (Epstein 2005); or for reasons unrelated to the nomination, such as when Sen. Larry Craig (R-ID) placed a hold on Air Force promotions in an attempt to force the Pentagon to station more C-130s in Idaho (Schmitt 2003). Aside from holds, full blown filibusters also frequently occur against nominees. For example, while they were in the Senate

minority, Democrats filibustered ten of President George W. Bush's nominees to the federal bench.

From the District of Columbia's perspective, its lack of say over federal judiciary nominations is the most glaring, both because of the way the District's placement within federal judiciary is arranged as well as because of the special influence that individual senators have over appointments to the federal courts below the Supreme Court.

To my knowledge no one has produced a comprehensive study of how federal court decisions have shaped the District over time, but, without question, the courts have enormously affected District politics and policy. For example, the Supreme Court decision in *Reily v. Lamar* (1805) undercut District resident voting rights in Maryland (Bowling 1991). *Bolling v. Sharpe* (1954) – the companion case to the first *Brown v. Board of Education* (1954) – ordered the desegregation of District public schools. More recently, the U.S. Court of Appeals for the District of Columbia Circuit in *Banner v. United States* (2005) declared that the District could not tax non-residents who work in the District without congressional permission. (The decision stood after the Supreme Court refused to hear the case.) In *District of Columbia v. Heller* (2008) the Supreme Court overturned the District's handgun ban.

The core of the federal judiciary is made of three layers: District, Court of Appeals, and Supreme Court.¹¹ Virtually all federal civil and criminal trials occur at the District level. Appeals that fit federal court jurisdiction requirements are heard at the Court of Appeals and Supreme Court. The 94 District courts cover distinct geographic units across the United States. Each state has at least one District court, but no federal District court spans more than one state. The District is covered by the U.S. District Court for the District of Columbia. This court hears cases that originate in the District and meet federal jurisdictional requirements. A famous example is the John Hinckley trial which occurred in this court (Taylor 1982).

The U.S. Court of Appeals is divided into twelve circuits, also arranged into exclusive geographic units.¹² Eleven of the circuits are designated by numbers and cover groups of states. For example, the 9th Circuit includes Alaska, Arizona, California, Hawai'i, Idaho, Montana, Oregon, Washington, and the Pacific territories.

The District of Columbia alone is contained within the U.S. Court of Appeals for the District of Columbia Circuit. Arguably the DC Circuit court is the most powerful federal court short of the Supreme Court because the federal presence provokes many cases of national importance. More importantly for our purposes, the DC Circuit holds appellate jurisdiction for cases about some aspect of the District itself.

¹¹ The federal court system includes a variety of other courts such as bankruptcy courts. The courts discussed in this section should not be confused with the District's own "state" court system comprised mainly of the Superior Court and the DC Court of Appeals. The latter is easily confused with the U.S. Court of Appeals for the D.C. Circuit, a federal appellate court.

¹² A further appellate court – the U.S. Court of Appeals for the Federal Circuit – is located in D.C. but has a national jurisdiction over federal issues such as veteran's claims and trademarks.

Finally, the nine members of the Supreme Court collectively make up the ultimate appellate court in the land. The Supreme Court is the court of final resort. But that court generally chooses to hear fewer than 200 cases from among the thousands it receives each year. In practice the Court of Appeals courts decisions stand for their particular region of the country. Thus in practice, the DC Circuit decisions tend to be final for the District.

This basic information about the federal judiciary helps set the context for a discussion regarding District influence over court selection. Through their senators, every state influences the composition of all federal courts through the devices I have already discussed -- namely holds, filibuster, and, of course, the confirmation vote. But for the courts below the Supreme Court -- the district and circuit courts -- the power of individual senators is perhaps even greater than it is with other types of confirmations due to the senatorial courtesy norm. Thus for confirmation to these lower courts, the District's lack of even a single voice in the Senate is all the more glaring.

Senatorial Courtesy

In essence senatorial courtesy is a norm where senators have direct input on federal district appointments from their state. There are aspects of senatorial courtesy that apply to the Court of Appeals as well. Recall that district courts are wholly contained within a given state. When a vacancy occurs in a state the president traditionally consults with one or both senators from the state who hail from the president's party. Indeed, the president normally appoints candidates suggested by a home-state senator, one of the last vestiges of patronage remaining to Congress. If a state has two senators from the president's party then often the president will alternate selections between the two or the two will work together. If a state lacks a senator from the president's party, then the president may consult other prominent elected officials from the state, but this norm is not nearly as strong for the obvious reason that senators have the power to protect their prerogatives in this area because of the Senate's confirmation role.

Thus senators from the relevant state who are from the president's party have a direct say over who gets appointed to the district bench. Furthermore, a custom internal to the Senate makes it easy for senators within a state to block unwanted candidates from their state. They can do this through what is called the blue-slip procedure.

Once the president nominates a candidate for a district bench judgeship, the nominee's confirmation case goes to the Senate Judiciary committee. When the committee prepares to consider a nominee it sends a blue piece of paper -- a blue-slip -- to the two senators from the nominee's state. If both senators send the blue slip back with a positive endorsement, then usually the nominee will receive a hearing, get passed on to the floor, and then voted onto the bench. The reciprocity norm is strong in these circumstances -- I'll vote for your nominees if you vote for mine.

What happens when a senator fails to return a positive blue slip? Before 1995, a single negative blue-slip wounded but usually did not kill a nominee's confirmation. Two negative blue-slips meant no hearing, let alone a floor vote. In 1995 the new Republican majority reduced the number of blue-slip rejections needed to block a nominee to one. This move facilitated the mutation of the blue-slip norm from the parochial to the partisan. It was an easy – and private – way for Republicans to block President Clinton's nominees from states that were served by just one Republican senator, such as North Carolina. Things went downhill from there but today the blue-slip is primarily a partisan device. Under recent divided government, if a Democrat from the state wanted to stop a Bush nominee, he or she needed only fail to produce a positive blue slip to prevent a hearing.

Though the story is a bit more complicated with Court of Appeals nominees, since each numbered circuit spans multiple states, it is largely the case that senators try to exploit the blue-slip process when the nominee is from their state.

All of this sums to the fact that individual senators dramatically affect judicial confirmations on the lower two court levels through senatorial courtesy. This includes the blue-slip process, as well as through the other procedural devices such as the hold. Though historically infrequent, the filibuster may also be used against nominees to the Supreme Court, and presidents surely consider that fact when making nominations. Citizens from other states have a say over who will hold these life-time appointments on the federal bench, while the District citizens have no input at all over who will judge them for decades to come.

The U.S. Senate and Small States

Were the District of Columbia today a state, it would be second to Wyoming as the smallest state by population. It would join seven states with populations below one million and House delegations comprised of just one representative.

Small states hold slight mathematical advantages in the Electoral College relative to their populations. They also enjoy a bit more representation in the House per capita than bigger states since each state is guaranteed at least one representative regardless of population. Obviously on a per capita basis small states receive far more representation in the Senate than big states. For example, California's more than 36 million residents receive the same number of senators as Wyoming with its slightly more than 500,000 residents. This was in part by design and in part due to political necessity. The structure of the Electoral College and Congress suggest that the founders put little stock into the idea of one person, one vote.

Less obvious are the actual policy and representational advantages that go to the small states. I return to this theme in later sections, but some of these small-state advantages are worth noting as part of this larger discussion of the District's lack of representation in the Senate. By far the most important work in this area is *Sizing Up the Senate* by Lee and Oppenheimer (1999). They show that the Senate favors small states in several ways.

Small-state senators interact more with individuals in their state and arguably provide them better constituency service. For example, small-state residents are far more likely to have met their senator and interacted with Senate staff than large-state residents (Lee and Oppenheimer 1999: 70). These representational advantages translate into more electoral safety for small-state senators which in turn gives small-state senators more freedom to pursue institutional power. In the House, the top leaders usually come from large states. For example, recent House Speakers hailed from California, Illinois, Georgia, Washington state, and Texas. In the Senate, small-state senators are more likely to reach key leadership positions. For example, Senate Majority Leaders since 1970 include Mike Mansfield (D-MT), Robert Byrd (D-WV), Howard Baker (R-TN), Bob Dole (R-KS), George Mitchell (D-ME), Trent Lott (R-MS), Tom Daschle (D-SD), Bill Frist (R-TN), and Harry Reid (D-NV). Only Baker and Frist, both from Tennessee, represented a relatively populous state.

In addition, small states fare far better on a per capita basis in receiving particularized spending, such as earmarks, and in the construction of spending formulas. For example, in 2003 Wyoming received \$61 per capita in homeland security funding compared to California's \$14 per capita (Ripley 2004). This occurs, in part, for reasons discussed earlier. The rules of the Senate provide individual senators great leverage. A senator from Wyoming, for example, will use that leverage to get his or her state a fair distribution of federal largesse. In politics "fair" means "as much as if not more than the other guy gets." If all states receive the same share of a federal program then the smaller states receive more on a per capita basis. Representatives from small states often defend this practice arguing that their smaller economies do not benefit from economies of scale.

Buttressing the small state advantage is the simple math of coalition building. By definition, the smallest 25 states with their 50 seats account for 50% of the Senate. Those same 25 states account for 70 seats in the House. That is just 16% of the total House chamber or 148 votes short of a majority if those state delegations vote together. In other words, small states do not count for much in the House. But if you want to build a simple-majority in the Senate, let alone a super-majority needed to stop a filibuster in the Senate, small states count for a lot.

2.7 Conclusion

This section provides an overview of institutional power as it relates to the District of Columbia and Congress. Overall the conclusions are mixed. In regard to institutional power, how disadvantaged is the District? In the House the answer is "somewhat" while in the Senate the answer is a "great deal." While the District and territorial delegates do face restricted voting rights, the impact of individual votes on politics in the House is not substantively great. Furthermore, the DC delegate does get to vote in the (Democratic) party caucus, a fact that gives the delegate a crucial say in party decisions, such as the leadership elections. It may be the case that the DC delegate suffers a disadvantage when it comes to committee appointments. As shown in Table 1, no District or territorial delegate has ever received appointment to the most important House committees. In

contrast, representatives from small states do frequently receive such appointments, so the delegate exclusion is not necessarily an artifact of smallness.

However, delegates do get appointed to important committees, especially committees directly relevant to their constituencies, and they have full rights on these committees. These rights extend to leadership. As Table 2 demonstrates, delegates frequently serve as subcommittee chairs. No delegate has chaired a full committee in the House. At the same time no delegate has ever been first in line in terms of majority and seniority status.

While all of this speaks to the direct substantive role that the DC and other delegates play in the House, I do not mean to underplay the symbolic disadvantage that delegates face. Descriptions of the House say there are 435 members, not 441. The delegates probably are not seen as fully legitimate members of the House by their constituents or colleagues. Clearly full voting rights on the floor matter to the delegates, otherwise they would not pursue them so vigorously. Furthermore, while a fully committee chairship is a realistic goal for a delegate such as Eleanor Holmes Norton (D-DC), it seems exceptionally unlikely that either party will ever place a delegate in a top leadership position such as Majority Leader or Minority Leader.

While the District's representation in the House approximates that of the nation's small states, the Senate is another matter altogether. The Senate is a full partner with the House in lawmaking and it has further powers not held by the House, namely treaty approval and presidential nominee confirmation power. As the section demonstrates, individual senators by themselves hold tremendous power even when they lack majority party status and great seniority. Furthermore, small states are especially advantaged by their senatorial delegations. The District of Columbia is denied these advantages.

3. An Overview of Different Representational Scenarios

3.1 Introduction

How would the District fare if its representational circumstances differed? To give the question some level of tractability I lay out here some reasonable scenarios. For the most part, I take each scenario as a given: "What if the representation was like this?" I do not try to evaluate how likely a given scenario is to happen though some of the analysis here and elsewhere in this report may point to who benefits from a given scenario. Likewise, I ignore the legal and constitutional questions that each scenario faces. For example, I do not tackle the thorny question of whether full representation for the District in Congress will pass Constitutional review by the Supreme Court. Finally, I do not try to cover every possible scenario, just the ones that seem most likely (while noting that *most* likely does not necessarily mean *very* likely).

That said, I consider the following scenarios:

1. The District's current delegate converts to a full-fledged representative with House membership increasing to 437;

2. District voters participate in Maryland House and Senate elections;
3. District citizens receive full and independent representation in both the House and Senate under the same rules governing states.

I leave unanswered whether #2 involves retrocession, whether #3 involves statehood, or whether any of the three require a Constitutional amendment. Additionally there are possible scenarios I ignore. The most prominent is probably the idea that DC gets, in essence, a delegate or delegates to the Senate. What impact this would have depends wholly on the rights such delegates would have in the Senate, e.g., the power to filibuster.

3.2 Converting the Delegate to a Full-Fledged Member

This scenario came close to realization when the DC Voting Rights Act (H.R. 1905) passed in the House in April 2007. The legislation fell prey to a filibuster in the Senate. The legislation was re-introduced in the House (H.R. 157) and Senate (S. 160) in the 111th Congress. While the bills passed their respective chambers, the Senate added an amendment to their version revamping the District's gun laws. As of May 2009 prospects for final passage of the DC Voting Rights Act appear dim.

For smart political reasons the current plan increases House membership to 437. Thus no state loses representation to the District. Note that the size of the House is determined by statutory law and not by the Constitution (other than the stipulation that each state receive at least one member). For most of the nation's history, the size of the House increased as the nation grew. It was eventually set by law to 435, but increasing the size further requires just legislation.

The main issue I want to address at this point is the question of District delegation size. (The brief analysis here will prove useful when addressing Maryland in Scenario #3.) The DC Voting Rights Act restricted the District's delegation size to one, regardless of District population. In practical terms this is not an important restriction.

Under current law, each decennial census kicks off a process of redistributing seats across the states based on population. The 435 seat restriction and the Constitutional requirement that each state receive at least one seat, makes it impossible to distribute seats equally by population across states (Ladewig and Jasinski 2008).¹³ Table 3 shows the populations, mean population for House seats, and number of seats for selected states and the District of Columbia.

Utah was the next state in line to receive another seat. Had DC Voting Rights passed, Utah would have redrawn its district lines to include a fourth seat. This was convenient since it created a natural basis for a bargain with a Democratic seat in the District offsetting a Republican seat in Utah, thus partially diffusing partisan opposition. But what

¹³ The one person-one vote requirement only requires equal population across districts within a state, not across states. Interstate differences can be quite dramatic (Young 2008 ; Ladewig and Jasinski 2008).

should be clear from Table 3 is how the District’s low population makes it extremely unlikely for the District to qualify for a second seat, even in a chamber of 437. Montana’s population exceeded the District’s by more than 300,000 at the last census and yet the Treasure State qualified for just one seat. Indeed, the smallest state to receive two seats after the last reapportionment is Rhode Island, a state with almost 500,000 more citizens than the District.

Thus the District would have to undergo incredible amounts of sustained growth to reach population eligibility. Keep in mind too that this is a moving target as the rest of the nation keeps growing. The only realistic scenario that increases representation for the

Table 3
House Seat Apportionment After the 2000 Census

Jurisdiction	Overall Population	Number of Seats	Mean Population Per Seat
Nation ^a	280,849,847	435	645,632
District of Columbia	572,059	1	572,059
Maryland	5,296,486	8	662,061
Montana	902,195	1	902,195
<i>Montana is the largest state to receive just one seat.</i>			
Rhode Island	1,048,319	2	524,160
<i>Rhode Island is the smallest state to receive two seats.</i>			
Utah	2,233,169	3	744,390
<i>Utah was next in line to receive another seat.</i>			

Source: U.S. Census
^a National population includes just the fifty states.

District – and frankly this scenario is not that realistic – is for Congress to dramatically increase the House’s size. There is nothing constitutional or sacred about 435 (or the 437 under the DC Voting Rights bill). In principle the House could expand to 500, even 1,000. There are some good arguments for House expansion, but for the District to receive more than one seat the expansion would have to be dramatic. Ladewig and Jasinski’s (2008) make clear that a House expansion to, say, 600 seats would not make a jurisdiction as small as the District eligible for a second seat. Realistically the House needs to expand past 650 seats for a second seat to come into play. It is worth noting that as the House increases in size, the value of any one seat drops. On a per capita basis, small states such as Wyoming and Alaska benefit by the current rules because each of their single representatives represent fewer people than the average representative.

3.3 Voting as Part of Maryland

Whether this occurs through a retrocession of the residential parts of the District to Maryland or through some other means is largely a separate question to this study. (That said, analysis of the possible political, economic, fiscal, legal, and cultural implications of retrocession deserve study in its own right.) For my purposes I will assume simply that in this solution District citizens vote in Maryland U.S. Senate elections in the same way that the rest of Maryland votes.

Addressing the House is more complicated. The first question is whether the current District is a standalone and exclusive congressional district within Maryland. This seems unlikely if only on one person-one vote grounds. As is clear from Table 3, the current District of Columbia is almost 100,000 residents smaller than the average Maryland district.

If, instead, the District is treated for the purposes of federal elections in Maryland just like any other city or county in the nation, then two questions arise. First, what will be the size of Maryland delegation? Second, how will Maryland draw its new congressional district lines now that the District is included?

Currently, Maryland has eight representatives to the House. Will adding the District add members to this delegation? To keep the discussion reasonably simple I will stick to 2000 census numbers and pretend that electoral retrocession occurred at the start of the current decade. All the points hold for 2010 or 2020 dependent on the population growth of Maryland and the District relative to the nation. Based on 2000 numbers a Maryland/District hybrid has a population of 5,868,545. (This is the sum of the District of Columbia and Maryland populations.)

Congress has used several different seat apportionment methods over time and settled on the current one – the so-called Huntington-Hill method – in 1941. The apportionment problem is surprisingly complex because the number of representatives per state must be whole while the proportion of population each state has tends to the fraction (Ladewig and Jasinski 2008). The essence of the apportionment problem boils down to allocating all those fractions into 435 seats.

Using the Huntington-Hill method, I estimated that adding the District to Maryland under the 2000 census, holding overall House size at 435, would yield nine House seats averaging 652,061 residents per seat. Expanding House size to 437 does not affect the results.¹⁴ The crucial point here is that adding District voters to Maryland yields an increase in Maryland's delegation size and does not dilute Maryland voters. Under this scenario the state gains a seat and average district size drops. Crucially, however, how much Maryland's delegation increases (or decreases) over time would depend on the population growth of Maryland and the District relative to the rest of the United States.

¹⁴ Expanding the size of the House obviously yields larger delegations. For example, an increase of the House to 600 seats would yield at least twelve seats for Maryland/District of Columbia.

This is a serious question. While Maryland ranked twenty-third among states in population growth between 1990 and 2000, the District continued to lose population during that period. (No other state lost population during the 1990-2000 decade. The District has seen some growth during the current decade.) Extrapolating from the Census Bureau's 2007 population estimates, it does appear that a Maryland/District hybrid gets nine seats under the 2010 census-based apportionment with a House of 435 seats.

The next question then becomes how would the Maryland state legislature draw its district lines to create these nine seats?¹⁵ Precisely answering this hypothetical is obviously impossible, but a few things are clear. First, some or all District voters will be grouped with Maryland voters. The District will be either parsed among two or more congressional districts or some part of Maryland will join an intact District. The one person, one vote requirement allows little variation in intra-state district size.

The math for this hypothetical situation is simple. Nine seats averages to 652,061 per seat for a Maryland/District hybrid. The District's population of 572,059 is too small to constitute a full district. Thus 80,000 citizens – presumably part of Prince George's or Montgomery counties – need to join the District. Or the District could be split in various ways with those parts joining parts of Maryland. While trying to keep natural political communities intact is often a goal of the redistricting process, in practice one person, one vote is a harsh constraint and often leads to the dispersion of counties, cities, even neighborhoods across multiple districts (Jacobson 2008).

Arguably, splitting Washington, D.C. more or less equally across two congressional districts helps the District by effectively doubling its representation in the House. What the District wants to avoid, however, is dispersal across so many congressional districts that the voter impact on any given seat is small and thus the influence of Washington voters diluted.

Then there are partisan considerations. Maryland is a heavily Democratic state. The General Assembly is majority Democratic. Usually the state elects Democratic governors and the current two U.S. senators from Maryland are Democrats. District voters vote even more reliably Democratic than Maryland voters.¹⁶

During the 110th Congress, Republicans held just two of Maryland's eight House districts. That number dropped to just one in the 111th. The 1st District is primarily on Maryland's Eastern Shore and usually votes solidly Republican. George W. Bush received 62% of the district's vote in 2004 and Republican candidates for state office generally carry the district. However, in the 2008 election Democrat Frank Kravotil

¹⁵ State legislatures create the U.S. House districts for their given states. In full retrocession this does not raise issues for the District since District citizens would have representation in the Maryland General Assembly. However, if District citizens do not have representation in the assembly then congressional districting becomes a huge problem as the Maryland legislators would have the incentive to dilute District influence through gerrymandering.

¹⁶ None of this is intended to gloss over the fact that the District and Maryland populations differ in numerous ways including their sense of place, identity, and history.

carried the seat in the wake of a serious ideological split within the Republican Party. He probably will have difficulty holding the seat in future elections. The 6th District mostly covers northern and western sections of Maryland. It too is a strong Republican seat. George W. Bush received 65% of the vote there in 2004 (Koszczuk and Angle 2007). Voters can be unpredictable but the drawing of district lines has become so sophisticated that a Maryland/District hybrid with nine seats should have seven if not eight safe Democratic seats. Of course, if true, then this creates a good reason for Republicans to oppose retrocession.

Things are much simpler for Senate elections. Adding additional Democratic votes solidifies Democratic control over Maryland's two seats. Most years this effectively makes the Democratic primary the key election. The question is: will District of Columbia voters make up a large enough portion of the primary electorate to attract close attention from Maryland senatorial candidates and senators once elected? This is a crucial question of representation and feeds into the analysis in the next section. If we look at the 2008 presidential primary numbers then it is clear that the District would make up a large proportion of the Maryland primary electorate. To be sure, the 2008 presidential primary on February 12th surely represents an upper bound for turnout, for both Maryland and the District, since it was the rare competitive presidential primary. Yet, at this point we are just interested in the relative numbers, that is how large is the District turnout relative to Maryland's. Furthermore, as I argue later in this report, District turnout in both primaries and general elections will likely increase as a result of gaining legitimate representation in Congress because the value of an individual voter's vote will increase.

In the 2008 Democratic primary, 114,001 District residents cast their vote for president while 878,174 Maryland residents cast their vote for president. Those two numbers sum to 992,175. The District's share of that sum is 12%. That share of the primary electorate will not make Washington, DC the dominant force in Maryland senate elections, but it will make the District an important force in Maryland senate elections. It will make the District an important enough force that rational politicians will carefully look after concerns that unite District voters.

3.4 Full and Independent District Representation in the House and Senate

This is the simplest of all the scenarios. Presumably it occurs with statehood, but, again, I will leave the means of gaining the representation unexamined. Here the District receives representation in the House and the Senate that is exclusive to the District as or as if the District were a state. As I demonstrated in Section 3.2, the District can only hope to have one representative in the House. Short of radical increases in District population or equally unlikely boosts in the size of the U.S. House, the District will have just a single representative for the long run. More importantly, under this scenario the District would

have two senators. Given District demographics and voting trends both seats will probably be held by Democrats for the foreseeable future.¹⁷

4. The Policy Benefits of Negative Power and Congressional Action Directed Towards the District, 1995-2008

4.1 Introduction

It is natural to think of what a representative might do for his or her constituency in terms of the creation of policy. This might include the provision of an earmark that benefits a local university, the creation of a funding formula that helps the state, or simply the support of more general policies favored by a significant portion of the member's constituency.

Yet, arguably as important as the ability to create policy is the ability of a representative to obstruct, to stop the passage of some policy opposed by the constituency. Indeed, the most common complaint District residents make about the current arrangement is their inability to stop Congress from imposing laws against the will of the locally elected government and the general District populace.

I refer to the ability to stop or obstruct a policy as *negative power*. (Note that the term negative in this context does not imply bad.) In American politics the presidential veto is perhaps the most prominent example of negative power with the senate filibuster a close second. As I discuss later in the section, negative power is not just about obstruction. The power to obstruct gives a political actor the power to bargain. For example, the veto gives the president a powerful leverage tool to extract concessions from Congress (e.g., Cameron 2000).

Generally speaking, the U.S. Constitution prevents Congress from imposing laws on individual states.¹⁸ Also, again generally speaking, Congress lacks the authority to overturn most state laws. For example, state sovereignty under the Constitution denies Congress the authority to remove power from a state's governor and give it to another official, such as the state treasurer. To be sure, America's unique brand of federalism is an intricate and complex set of interrelationships. Congress cannot pass a law requiring states to set twenty-one as the legal drinking age. Congress can, and did, threaten to withhold federal highway subsidies to any state with a drinking age lower than twenty-one.

¹⁷ This simple political fact surely explains why contemporary Republicans as a rule oppose District statehood. Indeed, virtually all past attempts to enter new states into the union provoked major fights within Congress over partisan balance (McCarty, Poole, and Rosenthal 2002). Aside from overcoming formidable constitutional hurdles, advocates for DC statehood will also have to find a way to off-set the Democratic-leaning District with a Republican-leaning state such as Winnipeg or Cuba.

¹⁸ Note that while I frame this discussion in terms of Congress, the president is part of this relationship as well. The president influences congressional action in a variety of ways, including his ability to veto legislation passed by Congress.

Still, the federal government's authority to directly dictate policy to the states through fiscal federalism, the Interstate Commerce Clause, and other means is limited. This is not the case for the District of Columbia. Under the U.S. Constitution, Congress has the legal authority to dictate fundamental policy to the District. Thus when Congress passed laws overturning or effectively nullifying District laws on domestic partnership benefits, medical marijuana, and residency requirements for District employees, Congress was acting within its legal authority. Indeed Congress has the power to pass a law effectively abolishing the DC government and replace it with a congressionally appointed body.

Congress's broad legal authority in regard to the District under current constitutional and statutory law is not under question. The point of this section, however, is to approach the District-Congress relationship from the perspective of representation. Regardless of Congress's legal authority over District policy, how would congressional actions change if the District had full representation in Congress? In other words, if we just changed the representational question, without also granting the District the constitutional privilege of statehood – either as its own state or as part of Maryland – how would policies affecting the District differ?

4.2 Identifying Legislation

To address the question of representation as it applies to the ability of the District to prevent unwanted legal impositions from Congress, I collected a dataset of all measures passed into law from 1995 to 2008 that reduced District autonomy or otherwise interfered with District policy. Some of these laws were passed as stand-alone authorization bills. Many were riders attached to the D.C. appropriations bills. Excluded from the list are the many laws that treat the District as one affected jurisdiction among many. Also excluded are measures that augmented District autonomy or were otherwise favored by District authorities (like the District delegate). The list excludes measures that just addressed the federal government itself or were largely ceremonial in nature. The list does not include legislation that was introduced but not passed.¹⁹

My purpose with this data is to consider the likelihood of each item passing under the different representational circumstances laid out in Section 3. The purpose of this analysis is not to address the question of whether a given policy is a good or bad policy. The question is about means, not ends.

A counterfactual analysis such as this is fraught with limitations. In truth, it is impossible to confidently know how policies affecting the District would differ even with minor changes in circumstances. This is part of the reason why I limit the analysis to just recent history and very specific legislation rather than taking on the full history of the District and rather than taking on fundamental questions about how, for example, the structure of

¹⁹ As a companion to this report I have created an appendix table that includes the full list of measures affecting the District, excepting specific spending lines and various paperwork requirements. The table is available at: www.gwu.edu/~gwipp/Research/DCRep.

DC governance and autonomy would differ today had the District received representation in the beginning or somewhere along the way.

Table 4 presents the measures. Several observations are notable. First, it is striking how Congress involves itself in the details of District governance, but, if anything this table dramatically *understates* the extent of congressional interference in District governance. For starters the list does not include the set of laws (from requirements under Home Rule to the building height restriction) that affect District governance every day. Likewise, the list does not begin to fully illustrate the tangle of reporting requirements each DC appropriations bill places on the District.

Most notably the list does not reflect the Congressional Review process. Under the Home Rule Act, ordinances and budgets passed by the District Council cannot go into effect until after a review period by Congress. The review period often takes as long as three months and requires extensive paperwork, though rarely results in outright rejection of the given law (Flowers 2007). While its full extent ebbs and flows over the years, Congress micromanages District affairs.²⁰

The list presented in Table 4 also undercounts congressional interference due to a deterrence effect. Congress likely deters the District from creating laws likely to provoke congressional reaction. As a consequence, there are surely numerous policies that would be in place under different circumstances. A commuter tax is one example. Gay marriage is perhaps another. Allegedly in 2004, then DC Attorney General Robert Spagnoletti produced a legal opinion in favor of the District recognizing gay marriages from other states. Then mayor Anthony Williams prevented the memo's release presumably to avoid provoking congressional ire (Delaney 2007).

A further observation, hardly original, is that Congress uses the District as an arena for the contentious social issues of the day. Abortion, gay rights, disputes over fighting drug abuse, school vouchers, and assisted suicide all figure prominently on the list. To be fair, most of the period under consideration saw Republican majorities and so the list brims with objectives of the modern Republican Party. Previous Democratic majorities demonstrated no hesitancy in imposing their own pet policies on the District (Harris 1995; Fauntroy 2003).²¹ Indeed, the District was even used as an arena by both sides of the debate on slavery, the most contentious issue in our nation's history.

²⁰ A classic example of this is Sen. August Octavius Bacon's (D-GA) successful effort in 1908 to get Congress to change Georgia Avenue to Potomac Avenue and Brightwood Avenue to Georgia Avenue, apparently because he disliked the physical condition and placement of the original street named after his state (Kelly 2008).

²¹ Notably the Democratic majority that took effect in the 110th Congress kept most of the restrictions in place as a way to reduce inter-party conflict. Given the District's lack of representation in Congress this is a low cost strategy for the Democrats to follow.

Table 4
Major Laws Passed by Congress Restricting District Autonomy or Otherwise Interfering with District Governance, 1995-2008

Topic	Bill Number (Date Became Law)
<p>Restriction on Delegate Voting</p> <p><i>Explanation:</i> At the outset of the 104th Congress the new Republican majority removed the authority of the DC and territorial delegates to vote in the Committee of the Whole (see Section 2.1 for a more detailed explanation).</p>	<p>HRes6 (1/5/1995)</p>
<p>Restriction on Domestic Partnership Benefits</p> <p><i>Explanation:</i> Various appropriations bills included language prohibiting the use of federal or District funds benefiting domestic partnerships. Later versions limited the prohibition to just federal funds.</p>	<p>HR1643 (1/6/1996); HR 3019 (4/26/1996); HR3845 (9/9/1996); HR2607 (11/19/1997); HR4328 (10/21/1998); HR3195 (11/29/1999); HR5633 (11/22/2000); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)</p>
<p>Lobby & Boycott Restrictions</p> <p><i>Explanation:</i> Various appropriations bills included language prohibiting the use of District or federal funds for the purpose of lobbying Congress or state legislatures.</p>	<p>HR3019 (4/26/1996); HR3845 (9/9/1996); HR2607 (11/19/1997); HR4328 (10/21/1998); HR3194 (11/29/1999); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)</p>
<p>Creation of the DC Financial Responsibility and Management Authority</p> <p><i>Explanation:</i> Created the “Control Board” with the power to oversee District finances, with authority to overturn mayoral and council decisions. This act clearly reduced District autonomy but also provided a (largely effective) mechanism for overcoming the financial crisis facing the District. It was generally if grudgingly supported by many District leaders (Janofsky 1995; Fauntroy 2003).</p>	<p>HR1345 (4/17/1995)</p>
<p>Creation of Charter School System</p> <p><i>Explanation:</i> Created the District’s charter school system. Effectively created a new type of public school system while also undercutting the District’s educational governance.</p>	<p>HR3019 (4/26/1996)</p>

Table 4
Major Laws Passed by Congress Restricting District Autonomy or Otherwise Interfering with District Governance, 1995-2008

Topic	Bill Number (Date Became Law)
Abortion Restrictions	HR3019 (4/26/1996); HR3845(9/9/1996); HR2607 (11/19/1997); HR4328 (10/21/1998); HR3194 (11/29/1999); HR5633 (11/22/2000); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)
<i>Explanation:</i> Disallowed use of District or federal funds for abortion excepting cases of maternal endangerment or pregnancy caused by rape or incest.	
Collective Bargaining Restrictions for Public School Employees	HR3845 (9/9/1996); HR4328 (10/21/1998); HR3196 (11/29/1999)
<i>Explanation:</i> Placed teacher evaluation process outside collective bargaining rules.	
Elizabeth Morgan Legislation	HR3675 (9/30/1996)
<i>Explanation:</i> This legislation was attached and passed as part of the Transportation appropriations bill. It removed jurisdiction over a contentious child custody case (<i>Morgan v. Foretich</i>) from the DC Superior Court. Rep. Norton (D-DC) opposed the measure on grounds the legislation violated the District's power of self-government (<i>Congressional Record</i> , E1644, 9/18/1996).	
Assisted Suicide Funding Restriction	HR1003(4/30/1997)
<i>Explanation:</i> The overall act prohibited the use of federal funds or federal facilities to support assisted suicide. (Thus states were free to use their own non-federal funds.) However, it also specifically prohibited the District from expending any District funds in support of assisted suicide.	
Residency Requirement Repeal	HR4328 (10/21/1998)
<i>Explanation:</i> Overturned the DC Act 12-340 requirement that new District employees to reside in the District.	
Needle Exchange Prohibition	HR4328 (10/21/1998); HR3198 (11/29/1999); HR5633 (11/22/2000); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)
<i>Explanation:</i> Prohibited use of federal or District funds for needle exchange programs. Most versions required any private entity that received federal funds and supported a needle exchange program to demonstrate distinct separate funding. Restrictions were loosened somewhat in 2007.	

**Table 4
Major Laws Passed by Congress Restricting District Autonomy or Otherwise Interfering with District Governance, 1995-2008**

Topic	Bill Number (Date Became Law)
Marijuana Decriminalization	HR4328 (10/21/1998); HR3198 (11/29/1999); HR5633 (11/22/2000); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)
<i>Explanation:</i> Banned federal and District funds for ballot initiative decriminalizing marijuana. Also nullified medical marijuana legalization initiative passed by DC residents.	
Voting Rights Funding Restriction	HR3197 (11/29/1999); HR5633 (11/22/2000); HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007);
<i>Explanation:</i> Prohibited using federal or District funds for efforts directed towards receiving representation in Congress.	
Needle Exchange Location Restrictions	HR5633 (11/22/2000)
<i>Explanation:</i> Made it illegal for private organizations to locate needle exchange programs near schools; created reporting requirements for programs located in public housing.	
Contraceptive Conscience Clause	HR2944 (12/21/2001); H.J Res. 2 (2/20/2003); HR2673 (1/23/2004); HR4850 (10/18/2004); HR3058 (11/30/2005); HR2764 (12/26/2007)
<i>Explanation:</i> Required the DC council to allow insurance companies a conscience basis for not covering contraception.	
DC School Choice Incentive Act	HR2673 (1/23/2004)
<i>Explanation:</i> Created the District's school voucher program. Was supported by many in the community including then mayor Anthony Williams.	
Prohibition on DC Commission of Human Rights Action	HR4850 (10/18/2004)
<i>Explanation:</i> Prohibited use of funds for DC Commission of Human Rights to enforce its order to reinstate to Boy Scout leaders discharged due to sexual orientation.	

It is not hard to understand why Congress chooses to use the District in this fashion. Congress has the power, for starters, but as important imposing these policies on the District serves a couple of different goals for some members. One is a policy goal. No

doubt many legislators who push, say, limitations on needle exchange programs genuinely believe that such programs cause more harm than good. More cynically, there is a directly political goal. Imposing these policies on the District gives many members of Congress a low cost, low risk way to claim credit with important constituencies, at home and across the nation. Since policies imposed on the District do not directly affect a member's constituency, a member has little fear of alienating many constituents. At the same time, an important interest – pro-life groups in the abortion case, for example – receive a policy victory and will credit the member for support.

Congress uses the District to make points about pet policy views. Similarly Congress likes to use the District as a laboratory for experiments in policymaking, with school vouchers the most famous example.²²

Looking at specific legislation, three need some justification. The focus in Table 4 is on substantively important legislation. (Thus I exclude largely symbolic legislation, such as the naming of buildings.)²³ Also I focused on legislation that clearly usurped District authority and was opposed by key District actors, most notably the congressional delegate, Eleanor Holmes Norton (D-DC).

Most of the items on the list clearly fit these criteria. The three exceptions are legislation creating the charter school system, school vouchers, and the Control Board. Each is an exceptionally important policy, with far ranging effects, and the creation of each dramatically undercut the authority of elected District officials. However, each was also supported by key elements of the District. For example, Rep. Norton opposed the voucher program but then mayor Anthony Williams supported it. Creation of the Control Board is an even more debatable inclusion. By 1995, the District was in the midst of a fiscal disaster and most District leaders accepted the Control Board's creation as the best choice among bad choices.

4.3 Representational Scenarios and Obstructing Pernicious Legislation

How might have this legislation turned out differently under the three different representational scenarios discussed in Section 3? Recall that the three scenarios include: 1. Conversion of the DC delegate to regular House member; 2. Including District voters in Maryland elections; and 3. The District receiving the full representation of statehood.

Excepting creation of the Control Board, I find it highly unlikely that much of the legislation listed in Table 4 becomes law under the latter two scenarios. True, most of the limitations placed on the District came through appropriations bills. Part of what makes appropriation's riders hard to stop is that fact that appropriations bills have to pass, otherwise bad things happen, i.e., the flow of federal funds stops. This is illustrated in

²² Another recent idea floated by Sam Brownback (R-KS) was to use the District for a pilot flat tax (Woodrow 2006).

²³ While naming federal buildings is not a crucial power in a policy sense, it is a way that members of Congress try serve their constituents by, for example, honoring local notables. Rep. Norton has noted that Congress interferes with her prerogative to name local federal buildings (DC Vote 2005).

numerous cases over the years when Rep. Norton tolerated what she saw as obnoxious riders simply to get the given bill to a final vote. Yet, the power especially of senators to protect their constituencies with their procedural leverage, leads me to believe that legislators representing other states would not dare interfere so directly in the District's business if faced with the possibility of provoking a District/Maryland senator.

What about the first scenario where the DC delegate is converted to a regular representative? By far this is the most likely scenario in the near future for the District. As I have argued earlier, getting full voting rights in the House will not give the District dramatically more influence over congressional policy. But, I do believe there is evidence that other members of Congress, and members of the various administrations, view the DC delegate as a somewhat less than fully legitimate representative. (I illustrate an example of this in Section 5 when I discuss the Revitalization Act.) If that is true then it means that conversion from delegate to representative will have a variety of informal, often symbolic, but potentially substantively important effects that go well beyond mere roll call voting. Still, without protection on the Senate side of the legislative process any DC representative will still find it extremely difficult to prevail against the type of legislation listed in Table 4.

5. Positive Power and Distributive Benefits to the District

5.1 Introduction

Each year the U.S. government sends billions of dollars in federal tax dollars to the individual states and the District of Columbia. These dollars support a wide gamut of policies. This includes everything from highway construction to Medicaid programs to homeland security protections to academic research. Needless to say, states aggressively pursue these dollars. Individual members of Congress, acting alone or in concert with their state delegations, often even working across party lines, exploit their institutional leverage for their constituencies' gain.

Given its lack of institutional leverage in Congress how well does the District of Columbia fare in the pursuit of federal support? To gain some insight into this question I have opted to look primarily at earmarks that go to colleges and universities. Earmarks are narrowly targeted spending items that typically (but not always) get enacted as part of the series of appropriations bills Congress passes each year. For example, in 1999 the University of the District of Columbia received \$450,000 in NASA funding for a program promoting interest in science, technology, and engineering among underserved students (*Chronicle of Higher Education*). Also in 2005 the Gospel Rescue Ministries of Washington, D.C. Gospel Rescue Ministries of Washington, D.C. received \$345,000 for their residential drug treatment program that serves the homeless (OMB 2008; Pub. Law 108-447).

Earmarks constitute a tiny portion of a federal budget dominated by entitlement and defense spending. Still, an earmark can dramatically affect the fortunes of recipients such

as a local government, a college, or a non-profit. A member of Congress seeks an earmark for the constituency because it is a way to directly affect a program or policy the member sees as beneficial (and, of course, claim credit for the success).

A huge number of political science studies demonstrate a link between a legislator's position in Congress and his or her ability to direct targeted spending, such as an earmark, to the constituency. My aim here is to create a statistical model that accounts for how higher education earmarks are distributed to the fifty states and then use that model to assess the amount of earmarks received by the District and ultimately predict how much in earmarks the District would have received with fuller representation in Congress. Knowing how the District's lack of representation affects higher education earmarks will give us a good sense of how that lack of representation affects earmarks specifically and federal spending more generally.

I focus on just higher education earmarks for two practical reasons. First, it can be difficult to disentangle federal spending that flows through, or is somehow directed towards, the federal presence in the District from federal spending that is directed towards District interests. With higher education earmarks we know the spending is going to a local college or university so the problem is thus less acute. (More on this point below.) Second, earmarks are surprisingly difficult to define and identify. One of the few reliable collections of earmarks that exist was produced by the *Chronicle of Higher Education* and includes all higher education earmarks appropriated to state colleges and universities during fiscal years 1990 – 2003.

5.2 Higher Education in the District and the Pursuit of Earmarks

Over the last two decades the amount of earmarks directed towards colleges and universities have sky-rocketed (Brainard and Borrego 2003; Brainard and Hermes 2008). As federal dollars towards academic research and programs have stayed largely stagnant during this period, many higher learning institutions feel obligated to enlist their representatives for help garnering earmarks.²⁴

Consider a typical university located in a state. The University of Maryland, College Park is a convenient example. When the university pursues an earmark it has multiple options. It can approach its local representative. It can approach other members of the Maryland House delegation. It can approach one of its two senators. It might even approach a university graduate who happens to represent another state. In many cases the university will ask its state delegation to work together, something delegations frequently do. Looking at the current Maryland delegation, the UMD has a great deal of potential political firepower. The university resides in the district of the current House Majority Leader, Steny Hoyer (D-MD). Representing a district immediately adjacent is Chris Van Hollen (D-MD), who serves on the powerful Ways and Means committee and serves as

²⁴ This is a worrisome trend since the criteria that determine the allocation of higher education earmarks is highly political. Thus what types of academic research gets funded can be based on criteria other than academic merit.

chair of the Democratic Congressional Campaign Committee. Then there are the two Maryland senators. One of those – Sen. Barbara Mikulski (D-MD) – chairs the Appropriations subcommittee on Commerce, Justice, and Science. Several members of the Maryland delegation, such as Hoyer and Sen. Ben Cardin (D-MD) are alumni.

Contrast the University of Maryland with one of the District's universities. American, Catholic, Georgetown, George Washington, Howard, Southeastern, and the University of the District of Columbia all managed to secure earmarks during the 1990 - 2003 period. The DC delegate can only do so much, therefore these universities often turn to creative outlets for help with earmarks. Reportedly both Georgetown and George Washington turn to their alumni in Congress as much as possible. For example, long time senator Daniel Inouye (D-HI) went to George Washington and a long list of prominent public figures attended Georgetown, including prominent senators Durbin (D-IL), Leahy (D-VT), and former president Bill Clinton.

Yet while the alumni of these universities may help, they have no electoral connection with District universities. Their incentives to help are limited. This is part of the reason why both Georgetown University and George Washington University have established prominent physical presences in Virginia. By building up campuses outside of the District, these schools can turn to Virginia's powerful congressional delegation for federal support. Of course one implication of this is that earmarks that appear to go to District universities are actually going to satellite campuses outside the District. Thus the benefit to the District itself is more indirect than it appears.

Table 5 presents the total amount of earmarks solely received by District universities from 1990 – 2003. Some earmarks are shared among multiple institutions, often across multiple states, and the congressional language typically does not indicate the actual allocations across institutions. Thus my analysis focuses on those earmarks that went to just one university.

Over this period, District universities received over \$100 million in earmarks. Three universities – Georgetown, George Washington, and Howard – received over \$10 million each. But clearly Georgetown is, by a huge margin, the dominant force in earmark receipts. Fully 80% of the earmarks dollars went to Georgetown. Take Georgetown out of the equation and the District's total earmarks plummet to a bit more than \$27 million.

Arguably Georgetown is an outlier that dramatically overstates the District's ability to attract earmarks. More than other institutions, Georgetown is an institution in the District of Columbia rather than of the District of Columbia. Still, Georgetown faces a structural disadvantage relative to its peer universities across the nation in the pursuit of earmarks because it must rely more on its alumni base than its representative delegation. Except where specifically noted, I have left Georgetown's earmark numbers in all the analysis that follows.

Table 5
Total Earmarks Received by District Universities, 1990-2003

Institution	Earmark Amount
American University	\$50,000
University of the District of Columbia	\$450,000
Southeastern University	\$500,000
Catholic University	\$1,225,000
George Washington University	\$11,069,090
Howard University	\$13,909,000
Georgetown University	\$106,803,200
Total (All)	\$134,006,290
Total (Sans GU)	\$27,203,090

Source: Chronicle of Higher Education

Note: Totals include just earmarks that went solely to the respective institution. Earmarks shared among multiple institutions omitted.

5.3 The District Compared to Other States

Figure 1 indicates the total number of earmarks received by the universities in each state. This total includes both those earmarks that went individually to a university and those that were shared by the given university and other institutions.

District universities received a total of 80 earmarks over the period which places the District near the bottom of the list. Looking at the number of earmarks granted individually to universities (Figure 2), the District's total of 46 places near the bottom relative to all states.

However, the total value of the earmarks depicted in Figure 3 tells a somewhat different story. Earmarks granted solely to single universities in the District valued about \$134 million from 1990-2003. Relative to the other states, this places the District exactly in the middle – twenty-sixth. Among the states the big earmark “winners” were Pennsylvania, Alabama, Florida, and California with each state receiving more than \$500 million in earmarks (again not counting earmarks that were shared among institutions). Wyoming, Delaware, South Dakota, and, interestingly, mid-sized state Tennessee ranked at the bottom. Removing Georgetown's earmarks naturally places the District's totals at the bottom end of the scale, just above Vermont.

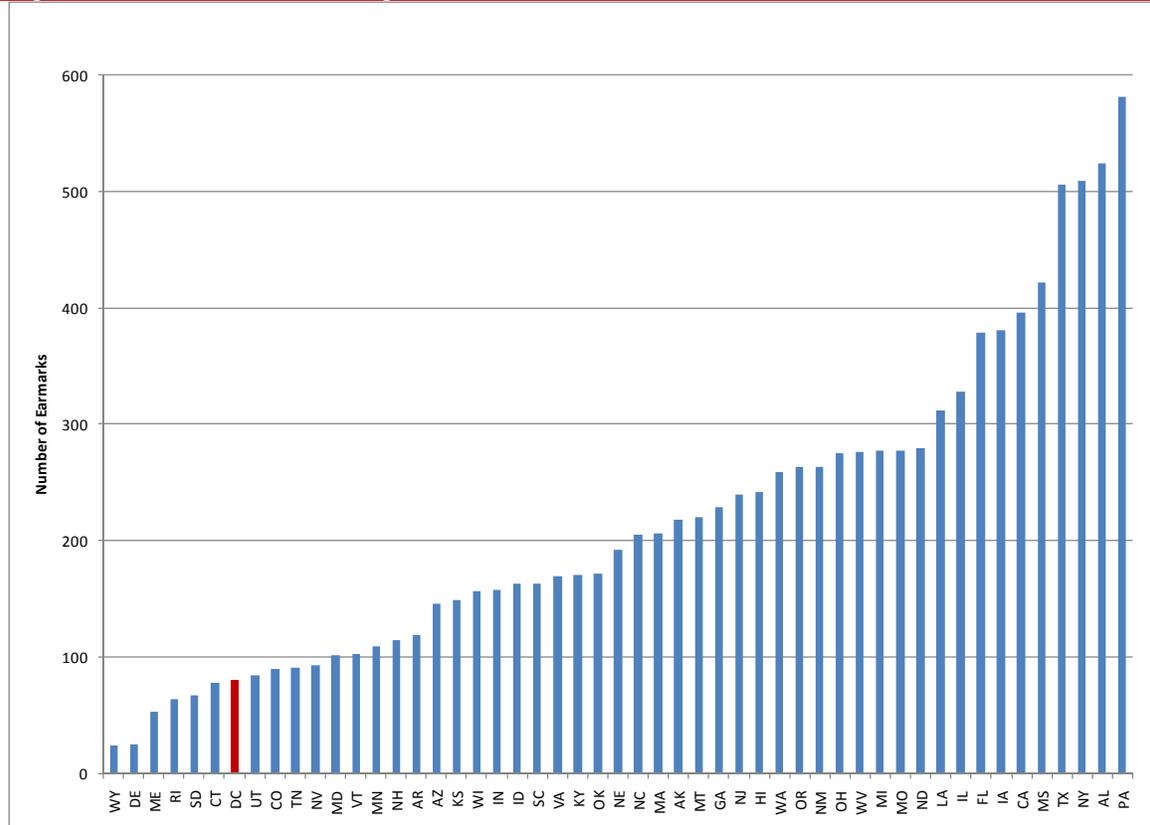
5.4 Estimating Earmark Allocation by State and the District

As should be obvious from Figure 3, state population plays some role in the distribution of higher education earmarks, but the role is nowhere near close to definitive. This is consistent with the political science literature that largely finds that the power of state's congressional representation helps determine such spending benefits. Indeed, small states

generally enjoy relative advantages in the American system (Lee and Oppenheimer 1999; see also section 2.6).

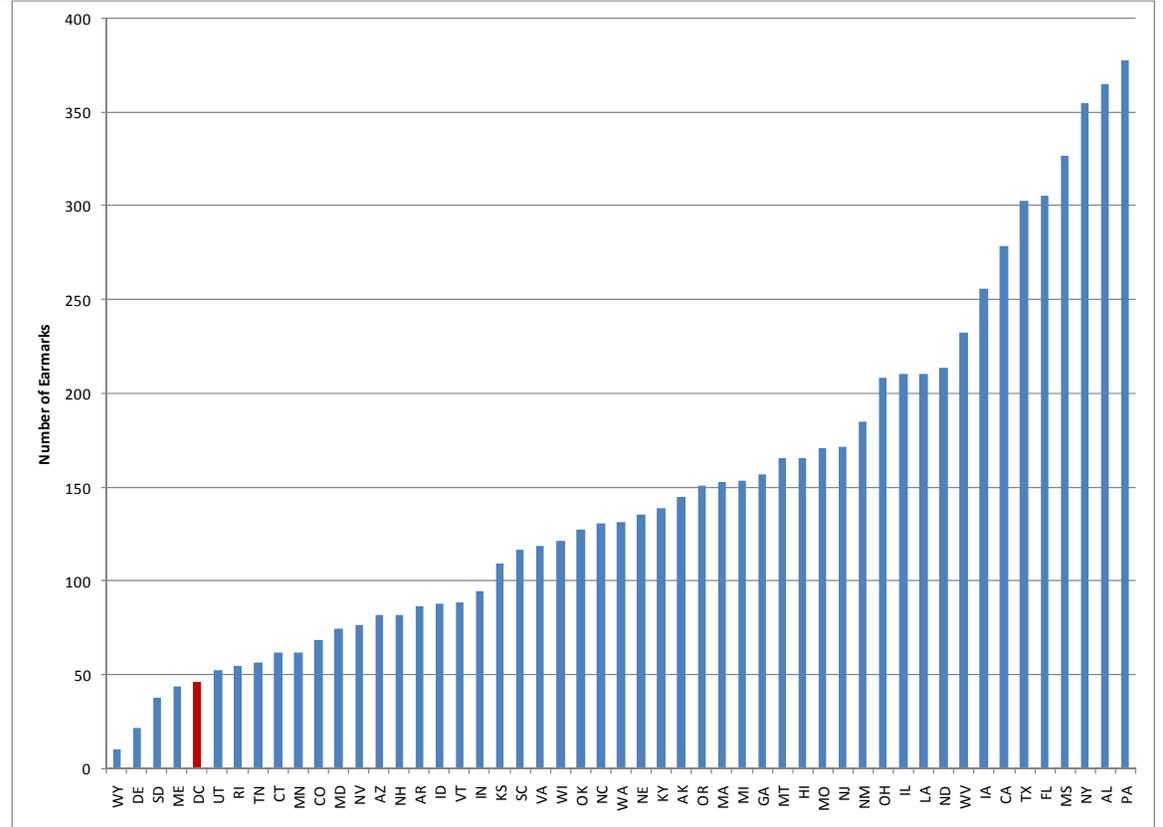
In this section I develop a statistical model that predicts how many earmarks are allocated to each state. I then use these results from the model to examine the District of Columbia's success with higher education earmarks in several ways. I compare the District's actual earmark's total with what the model predicts that the District should get given its characteristics. I go on to predict what the District would get if it had greater representation in Congress.

Figure 1. Total Number of Higher Education Earmarks Granted to State, 1990-2003



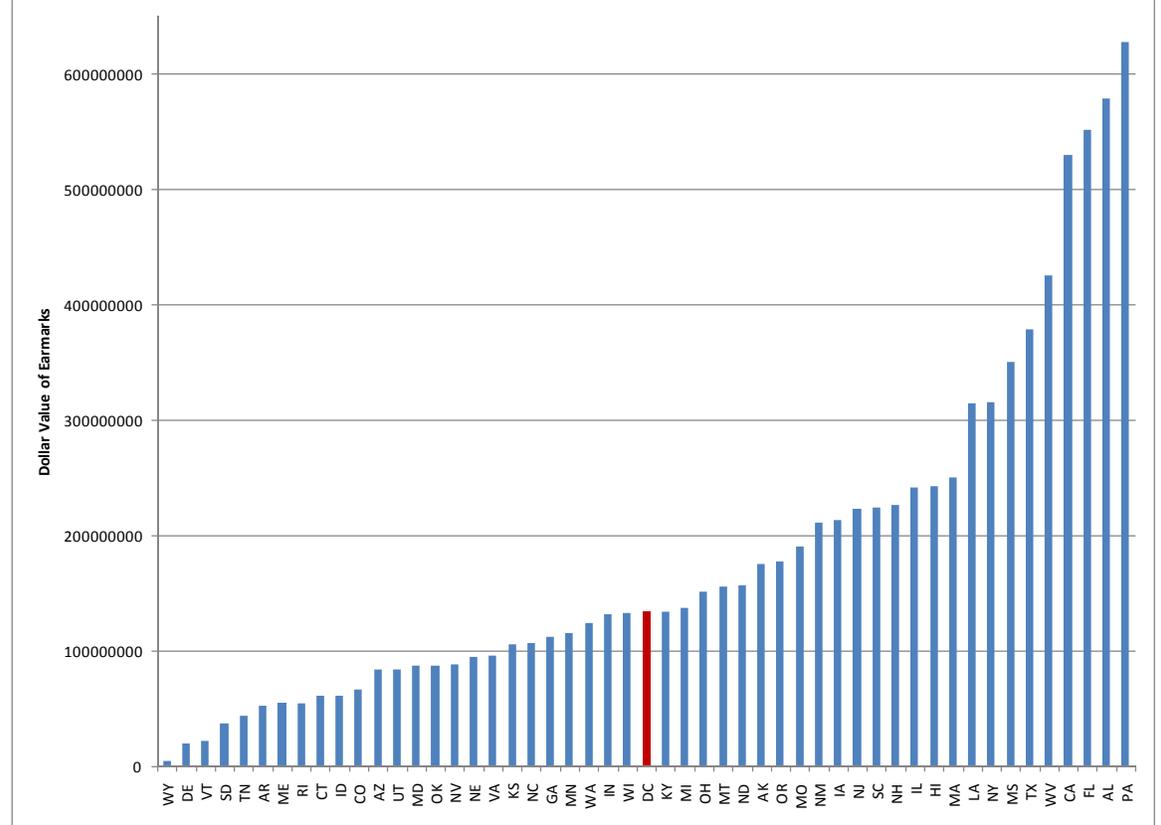
Source: *Chronicle of Higher Education*

Figure 2. Number of Earmarks Solely Granted to State, 1990-2003



Source: *Chronicle of Higher Education*

Figure 3. Total Value of Higher Education Earmarks Solely Granted to State, 1990-2003



Source: Chronicle of Higher Education

Table 6 describes the variables used in the statistical model. The dependent variable in this case was the total annual amount of earmarks granted solely to individual universities in each state for the years 1994-2003.²⁵ The independent variables include a variety of Congress-based variables and other variables that capture aspects of each state's higher-education system. Each of the independent variables was lagged by one year since decisions about earmark allocations are typically made in the year prior.

The full details of the regression are relegated to a technical appendix available at www.gwu.edu/~gwipp/Research/DCRep.htm. Table 6 indicates with a ✓ whether the given relationship was statistically significant, i.e., not likely to occur due to chance at $p < .05$, two-tailed.

We can glean a lot just from the simple results in Table 6. For starters the distribution of higher education earmarks had little to do with the higher education "profile" of the given state. The number of universities in the state, the number of research-oriented universities in the state, and the number of college students per capita in the state did not affect the results. Also, there is no notable relationship between state size – captured by the House Delegation Size variable – and earmarks. Instead, the key criteria were explicitly political. The more members a state has on either the House or Senate appropriations committee the more earmark dollars the state garnered. Likewise a state with a House member or senator chairing an Appropriations committee or subcommittee (or a senator with ranking status on an Appropriations committee or subcommittee) attracted more in higher-education earmarks. Importantly, representation in the Senate consistently produces the bigger effect.

With the regression results I can now produce estimated earmark values given a particular scenario or profile relevant to the District of Columbia. In short, I can plug in particular values of interest, such as what happens if the District had a senator on the Senate Appropriations committee and check the prediction against reality. Figure 4 presents these results.

The first cone (leftmost) in Figure 4 shows the actual average annual amount in earmarks received by each state for the 1994-2003 period. The second cone shows the per year amount of earmarks the District was predicted to receive each year based on its actual characteristics. I calculated this number based on the District having zero for all Senate-based variables and the actual District values for all the other variables such as average House seniority for the DC delegate during the period, District presence on the House Appropriations committees (zero), the number of universities in the District, and so on. The model predicts that the District should have received only \$1,305,457 per year. This is well below the actual \$10,950,692 the District received on average each year from 1994 to 2003. This actual amount is reflected in the third cone.

²⁵ The period is slightly shorter than the data shown in Figures 1 - 3 due to data limitations.

Table 6 Variables Used in Estimate of Higher Education Earmarks

<i>Dependent Variable</i>	
Earmarks	Annual value of earmarks that went solely to the state, 1994-2003
<i>Independent Variables</i> (note all independent variables are lagged by one year)	
House Seniority	Mean seniority of the state's House members
Senate Seniority	Mean seniority of the state's House members ✓
House Chairs	Number of House full committee chairs
Senate Chairs	Number of Senate full committee chairs
House Appropriations	Number of House Appropriations Committee members ✓
Senate Appropriations	Number of Senate Appropriations Committee members ✓
House Majority Leaders	State represented by House Majority Party leadership
Senate Majority Leaders	State represented by Senate Majority Party leadership
House Minority Leaders	State represented by House Minority Party leadership
Senate Minority Leaders	State represented by Senate Minority Party leadership
House Appropriations Chair	House Appropriations chair (full or subcommittee) ✓
Senate Appropriations Chair	Senate Appropriations chair (full or subcommittee) ✓
House Appropriations Ranking	House Appropriations ranking member (full or subcmte)
Senate Appropriations Ranking	Senate Appropriations ranking member (full or subcmte) ✓
College Students	Number of college students in state per capita
Universities	Total number of universities in state
Research Universities	Total number of research universities in state
House Delegation Size	Number of members of House delegation

Note: ✓ marks denote if the variable was statistically significant in the regression equation.

What happens if we give the District the same values as the other small states – defined as states with just one representative in the House – for all variables excepting those pertaining to the District's actual higher education profile, and then set the Senate Appropriations variable equal to one? In essence, I am asking how much is a single senator on Appropriations worth? The model predicts the District would receive

\$12,900,000 in higher education earmarks per year, or about \$2 million more *per year* than it actually received, just in earmarks for higher education.

What happens if we assume the District had a Senate Appropriations chair rather than a non-chairing member of that committee? In this scenario the District's predicted annual haul in higher education earmarks jumps to \$16,200,000, or about \$6 million more per year in higher education earmarks than the District actually received.

In general I have set up these models to underestimate District earmarks. For example, for the predictions in Figure 4 I assume that Senate Seniority is at the mean of the other small states. Yet, if the District actually had two senators then realistically over time they would accrue seniority towards the high end of the spectrum. Why? Because the District of Columbia is a one-party dominated jurisdiction and senators from the District will find it far easier to stay in Congress and build seniority than senators from more party competitive states. A good comparison in this regard is Massachusetts where the *junior* senator of the state – John Kerry (D-MA) – was elected in 1984.²⁶

Also, as I have noted before both George Washington and Georgetown universities have cultivated presences in Virginia that enable them to potentially draw on the congressional delegation from that state. My model does not account for this effect and this may in part explain why the District's actual earmark collection exceeds what the model predicts.²⁷

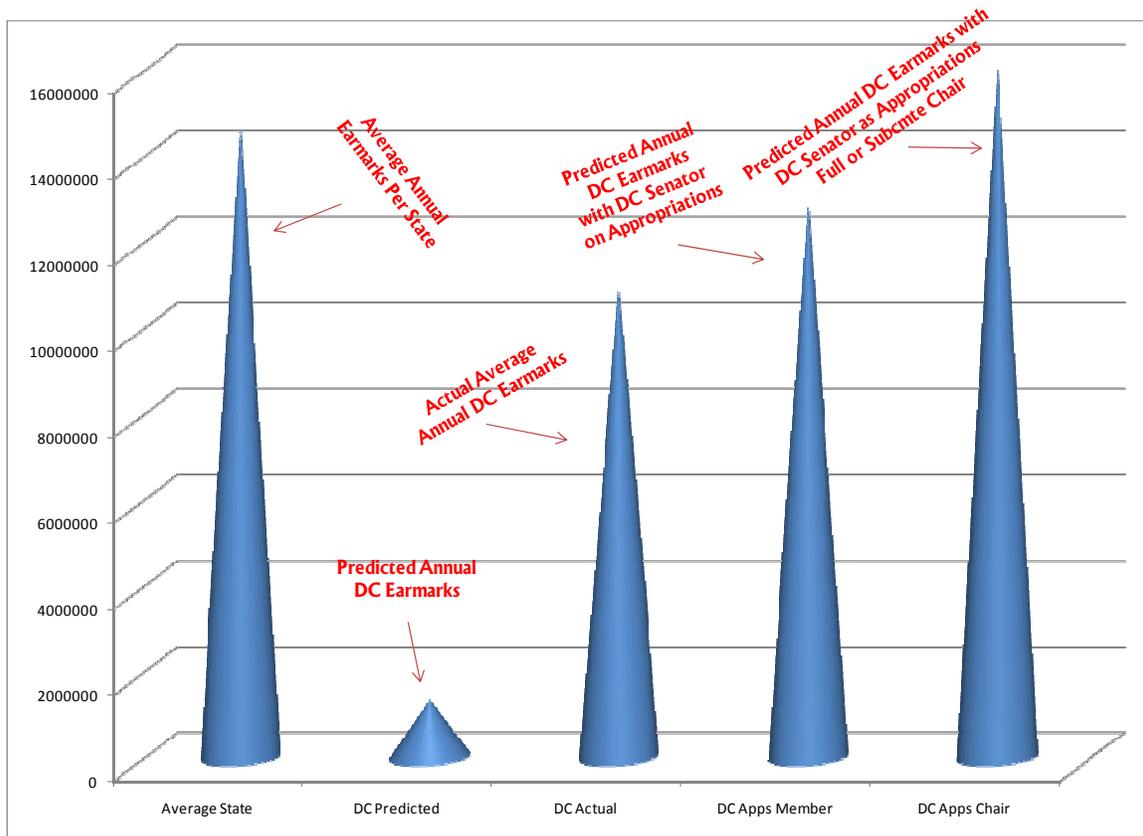
Additionally, my model does not account for cases where legislators from other states provide earmarks for the District. This is a case where an alumnus of a local university lends a favor. Likewise there are known cases of other legislators pursuing earmarks for District interests in categories other than higher education. A controversial example is the earmark Sen. Mary Landrieu (D-LA) obtained for a literacy program directed towards kindergartners and first graders in DC public schools. The \$2 million earmark required the program be carried out by Voyager Expanded Learning, a Texas-based company whose founder help raise money for the senator (Grimaldi 2007). While the literacy program did receive praise among some DC educators, it represents an example of a program that was not so much obtained for the District as imposed on the District. As I argue in a subsequent chapter, it is mistaken to interpret examples such as this as a substitute for actual representation.

In this analysis I have looked at just a slice (higher education earmarks) of just a slice (all earmarks) of federal spending. But how higher education earmarks are distributed gives us a nice window into the larger spending picture. While the District of Columbia perhaps does better than expected given its dearth of representation in Congress, it does far worse than it could if it had full representation in the Senate.

²⁶ One-party domination is not always beneficial. See Section 8.2.

²⁷ Prior to the previous Congress it was usually not possible to identify the specific person(s) who placed a given earmark into law. Thus I cannot test this idea directly. Recent congressional reforms require some earmarks to be identified by sponsor so it is possible that such an analysis could be done in the future.

Figure 4 Predicted and Actual Higher Education Earmarks



5.5 A Look at Other Pro-District Legislation

This section is meant to counterweigh somewhat Section 4.2 where I identified laws that in some fashion interfered with or reduced District autonomy. To be fair, Congress has and does pass legislation, aside from spending such as earmarks, that benefits the District a great deal. In Table 7 I list some of that legislation. This list is smaller than the list in Table 4 but I believe a fair representation of the major legislation beneficial to the District. This list is based on the same 1995-2008 time frame as the list in Section 4.2. Consequently, this list excludes older “Pro-District” legislation such as the 23rd Amendment giving DC representation in the Electoral College, the creation of the DC delegate, and creation of Home Rule.

Table 7 Legislation that Enhanced District Autonomy or Otherwise Directly Benefited District Residents

Topic	Bill number (Date Became Law)
Revitalization Act <i>Explanation:</i> The federal government assumed the District's pension liability, took over financing of District courts, closed the District's penitentiary shifting convicted felons to federal prisons, among other changes. It also ended the mandatory \$660 million annual federal payment to the District and dramatically decreased the mayor and council's authority over city agencies.	Title XI, HR2015 (8/5/1997)
DC Management Restoration <i>Explanation:</i> Returned mayoral and council authority over city agencies that had been removed under the Revitalization Act (See text discussion regarding the Revitalization Act)	HR433 (3/5/1999)
District of Columbia Family Court Reforms <i>Explanation:</i> Reformed the Family Court system.	HR2657 (1/8/2002)
Criminal Justice Coordinating Council Restructuring <i>Explanation:</i> Strengthened coordination between local and federal criminal justice officials. Original version sponsored by Rep. Norton.	HR2305 (5/20/2002)
Federal and District of Columbia Government Real Property Act of 2005 <i>Explanation:</i> Transferred several parcels of land, e.g., Poplar Point on the Anacostia River, to the District. Strongly supported by Rep. Norton and other DC leaders as a boon for District development and a potential offset of the District's structural deficit.	HR3699 (12/15/2006)
District of Columbia Omnibus Authorization Act <i>Explanation:</i> Approved DC Council governance reforms. Congressional approval was required under the Home Rule Charter.	HR3797 (10/30/2004)
District of Columbia College Access Act <i>Explanation:</i> Gave some District of Columbia residents in-state tuition at public universities outside the District. The 2002 act expanded the program.	HR974 (11/12/1999); HR1499 (4/4/2002)

The College Access Act and its expansion have helped 11,500 District residents receive in-state tuition to colleges outside the District (Sullivan 2009). According to the *Washington Post* the law's genesis came about almost through serendipity. The late Grant Stockdale opportunistically pitched the idea to a fellow parent at Sidwell Friends, an elite private school. That parent, President Bill Clinton, activated the process that ultimately created the act.

Most prominent on the list is the Revitalization Act passed in 1997. This act relieved the District of a major pension liability for DC employees, shifted much of the criminal justice system to federal control, and enhanced the District's access to the bond markets. It also ended the annual \$660 million federal payment and dramatically reduced the authority of the District major and city council over city agencies (Bouker 2008).

The Revitalization Act helped relieve the District of some major financial liabilities, liabilities caused in large part by various federal policies. It was strongly supported by Rep. Norton and probably helped the District spare home rule from further restrictions. Yet, it is hard to look at the legislative history behind the Revitalization Act without concluding that fuller representation would have yielded a better outcome for the District. For starters, the legislation primarily addressed just expenditure issues. The other side of the ledger – the revenue side – was left untouched and in fact made worse by the end of the annual federal payment. Federal restrictions on the District’s ability to raise revenue remained in place. Furthermore, inclusion of the “Faircloth Attachment” undermined home rule.

This addition was pushed by Sen. Lauch Faircloth (R-NC) who converted his initial opposition of the Revitalization Act into an opportunity to remove power from the District mayor’s office, specifically the controversial DC mayor, Marion Barry, who was an anathema to conservatives in Congress. Faircloth succeeded in getting most of what he wanted in private negotiations late in the legislative process. Notably, Rep. Norton was excluded from those negotiations (Bouker 2008).²⁸

This leads to two observations. First, the exclusion of Rep. Norton from the crucial final negotiations only lends credence to the contention that the DC delegate was not considered a regular member of the House by the leaders of Congress or the Clinton White House. Second, a single DC senator would have stopped the Faircloth attempt cold. Indeed, the presence of a single DC senator in the process probably prevents Faircloth from even trying. Senators can fight fire with fire. Faircloth would have been looking at a future of objections to his requests for unanimous consent, and holds and filibusters against his pet legislation. In short, by interfering with another senator’s constituency he would have found it quite difficult to serve his own constituent’s. Yet, since the District lacked a regular representative in the House or a senator, Faircloth was able to impose his amendment without paying a political price.

6. Constituency Service and Extra-Constituency Representation

6.1 Constituency Service

Congressional observers naturally focus on the explicitly policy-related actions of legislators, such as their roll-call votes and the legislation they sponsor or co-sponsor. Less publically visible is the constituency service role that members of the House and Senate play. Voters frequently turn to their representative or a senator for help negotiating bureaucratic red tape or resolving problems with federal benefits. The specific problems vary considerably but family immigration issues, veteran’s benefits, social security, Medicare and Medicaid, government regulation, and taxes generate an enormous amount of casework for members of Congress and, especially, their staffs.

²⁸ The Faircloth Attachment was removed in a subsequent Congress.

Indeed, the typical staff member on the Hill devotes most of her or his time to addressing constituent communications and the casework generated from those communications. Legislators devote considerable resources to constituency service for two main reasons. First, it is part of the job definition for the modern member of Congress. Second, constituency service is a typically non-controversial and low-cost way to garner favor with constituents and thus boost re-election prospects (Mayhew 1974; Fiorina 1977; King 1991).

Constituents frequently find this service enormously helpful. But while a state citizen has three federal options for help (the representative and two senators) a citizen of the District has just one (the DC delegate). For obvious reasons, members of Congress rarely extend constituent aide to non-constituents.

One way to illustrate this is to simply look at the residents-to-legislators ratio for each state and the District. Table 8 shows this breakdown based on 2000 census numbers for state populations and the number of U.S. House and Senate legislators representing each state in the 110th Congress (2007-2008).

Note that in this context Table 8 appropriately treats senators and representatives as equivalent since the question here is constituency service rather than, say, legislative power. What we see in the table is a clear bias in favor of the smaller jurisdictions, with one notable exception. A Wyoming legislator's "share" of residents is 493,782 while for California the share is 615,848. There are more than 120,000 more residents per member of Congress from California than per member of Congress from Wyoming.

Thus each representative and senator from a small state potentially bears a far smaller constituency service burden than each representative or senator from a larger state. As a general statement the founders purposely built a small state bias into the system. We can see it in the fact that each state gets at least one representative to the House, regardless of size; we can see it starkly in the fact that each state receives two (and only two) senators, regardless of size; we can see it in the electoral college where each state receives at least three electoral votes, regardless of size.

Among the smaller jurisdictions, the District of Columbia stands out as the exception. The ratio of residents to legislators (in this case, legislator) is 44th highest for the District of Columbia. Thus the District delegate services one of the largest populations of residents of any legislator in Congress.

Recall that in Section 3 I considered three different representational scenarios: 1) The DC Delegate becomes a full-fledged representative; 2) District voters participate in U.S. House and Senate elections as Maryland voters; and 3) The District receives full and independent representation in the U.S. House and Senate. How would these changes alter the ratio of residents to legislators? Table 9 shows the ratio of residents to legislators using the 2000 census.

Table 8
Residents Per Number of Legislators in U.S. Congress (House and Senate)

Rank	State	Population	Legislators	Residents Per Legislator	Rank	State	Population	Legislators	Residents Per Legislator
1	Wyoming	493,782	3	164,594	27	Alabama	4,447,100	9	494,122
2	Vermont	608,827	3	202,942	28	Louisiana	4,468,976	9	496,553
3	Alaska	626,932	3	208,977	29	South Carolina	4,012,012	8	501,502
4	North Dakota	642,200	3	214,067	30	Kentucky	4,041,769	8	505,221
5	South Dakota	754,844	3	251,615	31	Missouri	5,595,211	11	508,656
6	Delaware	783,600	3	261,200	32	Arizona	5,130,632	10	513,063
7	Rhode Island	1,048,319	4	262,080	33	Tennessee	5,689,283	11	517,208
8	Montana	902,195	3	300,732	34	Massachusetts	6,349,097	12	529,091
9	Hawaii	1,211,537	4	302,884	35	Maryland	5,296,486	10	529,649
10	New Hampshire	1,235,786	4	308,947	36	Washington	5,894,121	11	535,829
11	Maine	1,274,923	4	318,731	37	Wisconsin	5,363,675	10	536,368
12	Idaho	1,293,953	4	323,488	38	North Carolina	8,049,313	15	536,621
13	Nebraska	1,711,263	5	342,253	39	Virginia	7,078,515	13	544,501
14	West Virginia	1,808,344	5	361,669	40	Georgia	8,186,453	15	545,764
15	New Mexico	1,819,046	5	363,809	41	Indiana	6,080,485	11	552,771
16	Nevada	1,998,257	5	399,651	42	New Jersey	8,414,350	15	560,957
17	Iowa	2,926,324	7	418,046	43	Ohio	11,353,140	20	567,657
18	Arkansas	2,673,400	6	445,567	44	District of Columbia	572,059	1	572,059
19	Utah	2,233,169	5	446,634	45	Michigan	9,938,444	17	584,614
20	Kansas	2,688,418	6	448,070	46	Pennsylvania	12,281,054	21	584,812
21	Mississippi	2,844,658	6	474,110	47	Illinois	12,419,293	21	591,395
22	Colorado	4,301,261	9	477,918	48	Florida	15,982,378	27	591,940
23	Connecticut	3,405,565	7	486,509	49	New York	18,976,457	31	612,144
24	Oregon	3,421,399	7	488,771	50	Texas	20,851,820	34	613,289
25	Minnesota	4,919,479	10	491,948	51	California	33,871,648	55	615,848
26	Oklahoma	3,450,654	7	492,951					

Table 9 Number of Residents Per Legislator for Various Representational Scenarios

Scenario	Population	Legislators	Residents Per Legislator
DC delegate becomes regular representative	572,059	1	572,059
DC residents vote in Maryland elections	5,868,545	11	533,504
DC statehood	572,059	3 (senators included)	190,686

Obviously making the DC delegate into a fully legitimate representative would not alter the ratio of residents to legislator, so on this issue the District would remain underserved in terms of constituency service. Were the District residents included in Maryland House and Senate elections (presumably through retrocession), then the Maryland delegation would increase to 11 (see Section 3.3) and the resident to legislator ratio (for Maryland and District residents alike) goes to 533,504. For District residents this would be a considerable drop while for Maryland residents the ratio would increase slightly.

Assuming the ratios for the other states remain fixed, the Maryland/District hybrid would have the 35th most residents per legislator. Of course, changes in population and decennial reapportionments will change these numbers over time.

In the case where the District by itself receives full representation in Congress (presumably through statehood), the impact on residents to legislators would be dramatic. Based on 2000 numbers there would be 190,686 residents per legislator, numbers quite comparable to the nation's smallest states.

Another way to look at this question is to consider the representational allowances granted to legislators. As mentioned earlier in this report, the Member's Representational Allowance (MRA) provides House members with funds to serve constituents, hire staff, travel, pay for congressional district office space, pay publishing and reproduction expenses, and frank mail. Of these categories, staff pay make up by far the largest proportion of the MRA. Congressional staff spend a huge amount their time addressing casework created by constituents (Young 2007). The DC delegate also receives an MRA (as do the territorial delegates) on par with regular representatives.

In 2008 MRAs ranged from \$1,609,725 to \$1,311,840 (U.S. Congress, House 2008) with the differences determined by district population, travel distance from the congressional district to the District of Columbia, and congressional district cost of living (Brudnick 2007).²⁹ The DC delegate's 2008 allowance was \$1,414,518 (U.S. Congress, House 2008).

²⁹ These ranges exclude the territorial delegates. Their 2008 MRAs ranged from \$1,316,782 (Virgin Islands) to \$1,926,971 (Puerto Rico).

While structured a bit differently, senators also receive allowances for the same purposes as House members with account sizes adjusted primarily by state population. In 2008, individual senator’s allowances ranged from Delaware’s \$2,757,743 to California’s \$4,416,993 (U.S. Congress, Senate 2008). Differences among senators is determined primarily by state size and travel distance from the state to Washington, D.C. (Brudnick 2007).

Table 10 compares the representational allowance per resident for the District with those for California and Wyoming, the nation’s largest and smallest states, respectively.³⁰ The California total comprises the MRAs for California’s 53 congressional districts and its two senators. Wyoming’s total comprises its one congressional district and its two senators. The District’s total stems from the MRA granted to the delegate.

Table 10 Total House and Senate Representational Allowances per Resident

	2007 Estimated Population	Total Allowance	Allowance per Resident
California	36,553,215	\$84,530,415	\$2.31
District of Columbia	588,292	\$1,414,518	\$2.40
Wyoming	522,830	\$6,942,764	\$13.28

Source: Allowances from U.S. Congress, House (2008) and U.S. Congress, Senate (2008); Population Numbers from U.S. Census.

Despite adjustments for population size, Wyoming legislators have far greater per capita allowances than either the District or California. As with the resident per legislator numbers in the previous table, the same general pattern holds for the other states with the smaller states enjoying far greater relative allowances.

To be sure, using the same measures used in tables 9 and 10 are crude ways to account for constituency service need or demand. Some populations need more assistance from their representatives than others. The academic literature here is not completely determinant as to what sorts of constituencies need more attention from their representatives, but there is evidence that a constituency such as the District’s, with factors such as its high percentage of impoverished residents and relatively large number of immigrants, is the type of constituency that needs more service from its legislators (Heitshusen, Young, and Wood 2005; Young 2008). Thus the numbers cited may underestimate the District’s disadvantage relative to other small states.

But the disadvantage potentially extends out in a rather less obvious way. The District largely lacks the cascading levels of governments that are common-place in the U.S. political system. Americans reside not just in the nation, and not just in states, but also in counties, municipalities, school districts, and a wide-range of special districts. Each type of government has its own set of policy responsibilities while sharing some policy responsibilities with others. Most feature a representative governance system. Thus a

³⁰ In this case I used 2007 population estimates since these more closely conform to the numbers used by the House and Senate to allocate representational allowances.

typical American is represented by a variety of different legislators including members of Congress, state legislators, county commissioners, city councilors, and school board members.

Our multi-layered and overlapping federal system is complex, often bewildering, and not always efficient. It is, however, rather open and decentralized, with a reasonably logical division of labor among these different levels of government. In a real sense, the burden of serving constituents is dispersed among different legislators (and executives, too) at these different levels of government.

In the District, governance is compressed and concentrated. As observers frequently point out, the District performs the functions of a city, county, school district, and state. In a real sense Congress also in part plays the role of the District's state government while also fulfilling its federal role. This compression and concentration of responsibilities has numerous implications for the way the District can govern itself. This surely leads to a greater reliance on bureaucracy to address complex issues such as Medicare and Medicaid, than necessary in other cities. But it also has implications for the DC delegate's office. The constituency service role of the delegate necessarily takes on more than just federal concerns. A constituent concern that normally goes only as high as a state legislator in a state in the District goes to the federal delegate. Thus the DC delegate faces greater constituency service obligations than representatives from the states.

6.2 The Paradox of Extra-Constituency Representation

America's founders assumed that the national capital city, wherever it ended up, would enjoy immense political and economic power. Surely the nation's government would attract tremendous economic development. Furthermore, the capital's residents would have a sort of super representation as they would have direct access and interaction with all of the government, Congress very much included. Indeed, the founders reasonably believed that this access would give the capital city great political power (which itself would help promote economic development) as members of Congress in essence were "captured" by local interests. After all, in the years before anyone could even imagine rapid transit, members of Congress were destined to spend uninterrupted weeks in the company of the capital's residents.

This is a big part of the reason why the writers of the Constitution opted to carve out a federal district independent from any state. Housing the nation's capital promised to give the host state far too much influence over the federal government (Bowling 1991).

Once Congress finally settled on what became Washington, D.C. as the nation's capital, it pretty much assumed that the District's economic and political development would largely take care of itself. This helps explain the completely haphazard and ad hoc manner in which Congress chose to govern the capital (Bowling 1991; Young 1986).

That the District's economic development did not quite work out quite so effortlessly or well cannot be disputed. Yet, assumptions about the District's influence over Congress persist. Take for example Rep. Louie Gohmert's (R-TX) claim during debates over District representation:

I have previously pointed out that one of the arguments made by our country's founders as to why they did not allow the District of Columbia to have a U.S. Representative was that the Founders noted that Members of Congress and the Senate have an interest in the city's functioning properly (*Congressional Record*, H3583, April 19, 2007).

Gohmert was expressing the commonly held belief that the District, in essence, has 535 representatives in Congress. That DC benefits from far more representation than any other part of the country. Superficially, this is a seductive argument. After all, the District is the primary place of employment for every single member of Congress (as well as the president and most of the top members of the president's administration). Many members of Congress even own property and maintain secondary residences in the District. Shouldn't this give members of Congress a strong stake in the welfare of the District?

Like many (perhaps most) commonly held beliefs this one surely has some kernel of truth. No doubt some members of Congress do develop an interest in District affairs. But the notion that members of Congress act in any substantive capacity as representatives of District interests contradicts the basic design and practice of the American legislative system.

For starters, a driving force, arguably *the* driving force for members of Congress is the reelection goal. It is simplistic to claim that reelection is all that motivates members of Congress or all these legislators care about. Yet, reelection is a first and necessary condition for achieving policy or other goals in Congress.

Members of Congress represent some subset of the United States, such as a slice of Louisiana or the state of Wyoming. By and large these individual districts and states are not representative of the larger nation. They are not microcosms of the United States. Congressional districts and states differ from each other in terms of predominant economic activity (e.g., agricultural production, manufacturing, etc.), their mix of urban, suburban, and rural areas, their partisan profiles, and a range of socio-economic and demographic characteristics such as race, poverty, wealth, religion, education, and so on.

Desire for reelection motivates members of Congress to hew closely to the character of their congressional districts. The parochial interests and needs of the district strongly influence a member's preferences for committee assignments, what issues to specialize on, and the casting of roll-call votes. A representative's very definition of what constitutes good public policy likely stems directly from the district's dominant interests. A representative from, say, rural Iowa who fails to cater to corn-producer interests will soon find herself facing strong challenges in the primary and general elections.

This parochial focus necessarily limits the influence of outsiders. It limits the ability of party leaders to pressure members into supporting the national party over district interests. It limits the influence of interest groups over members, even those contributing campaign funds, when the interest lacks a strong presence in the district (Lee 2005).

Most importantly for our purposes, this parochial focus limits the ability of legislators to take on “extra-constituency” responsibilities. By extra-constituency I mean constituents that do not reside in a given member’s district. The problem for members of Congress is that in most cases resources directed to these non-constituents do not serve the member’s constituents and may undercut a member’s reelection chances. It simply does not matter that so many members of Congress work and reside in the District of Columbia. DC residents collectively lack the fundamental currency necessary for influence over members of Congress, the ability to hire and fire these representatives through the vote.

The only place where members of Congress do have the incentive to provide something like extra-constituency representation for the District of Columbia’s benefit is the case where some key constituency within the legislator’s district shares a common cause with District residents. For example, members of the Congressional Black Caucus have often supported District causes, such as statehood. The history of the District is inextricably linked to the history of race relations in the United States, and African-American constituents around the nation recognize the symbolic and substantive importance of full representation for the District (Randolph 1990).

As another example, recently retired Northern Virginia representative Tom Davis (R-VA) was a critical supporter of various DC causes. He devoted a great deal of his time – and his staff’s time – supporting such efforts as the DC Voting Rights bill. Given his big investment in some District causes I think that it is likely his support stemmed from genuine support for the District. But at the same time it made good politics for him since tens of thousands of his constituents work in the District and thus have a stake in the District’s welfare.

Still, occasional alliance is far from consistent attention and support. More crucially, when the interests of the District conflict with the interests of any representative’s actual constituency then of course the District loses out. In the earliest days of the District members of Congress came to view an economically vibrant District of Columbia as potential competition to their own state economies. Faced with a conflict between their voters back home and District interests, members of Congress always went with their voters (Bowling 1991: 240). For all his support, Rep. Davis never hesitated to put his constituents first. Most prominently he (as well as all the other neighboring members of Congress) fiercely opposed granting the District the power to tax non-resident employees. This is perfectly understandable. It is what his constituents wanted.

In sum, the claim the District somehow benefits from the representation of one full-fledged member of Congress, let alone all 535, is patently absurd. District residents cannot turn to the representatives of another state for constituency service. Nor do they

have influence over the policy decisions made by any of the 535. Members of Congress will always put their constituents first, as they should, since that is the way the system was designed.

7. Political Participation and Ambition in the District of Columbia

7.1 Political Participation

The active participation of citizens is a fundamental component to democracy. Political participation takes many forms but voting is the crucial tool that the writers of the Constitution gave the nation's citizens to influence public policy. Voter turnout in the United States compares unfavorably to most other industrialized democracies (Franklin 2004). Within the United States, voter turnout varies dramatically from election to election and from state to state, and the propensity to vote varies dramatically from individual to individual. Scholars often point to voter turnout as a measure of our democracy's health. Generally speaking, the lower the turnout, the less the voting electorate is representative of the general public on factors such as race, income, education levels, and age.

One major factor that determines turnout levels in a given electorate, such as the District or a state, is the importance of the offices on the ballot. For example, turnout rates for presidential elections typically exceed turnout rates for midterm elections. Figure 5 shows the turnout rate among voting eligible adults in the District of Columbia for the 1980-2008 elections. Presidential elections are denoted with an X. In presidential election years the DC turnout in the general election averaged 49% while in midterm election years the DC turnout averaged about 33%.³¹

More to the point, the presence of a U.S. Senate race on a state ballot boosts turnout (Jackson 2002). Comparing turnout rates in midterm elections, the states with a senate race on the ballot have higher turnouts than those states without a senate race, controlling for the other factors that affect turnout, such as the education and age composition of state electorates.³² Adding senate races to the District ballots will almost certainly boost turnout somewhat. Since the District is effectively a one-party jurisdiction, the real competition in District elections generally occurs in the Democratic primary. However,

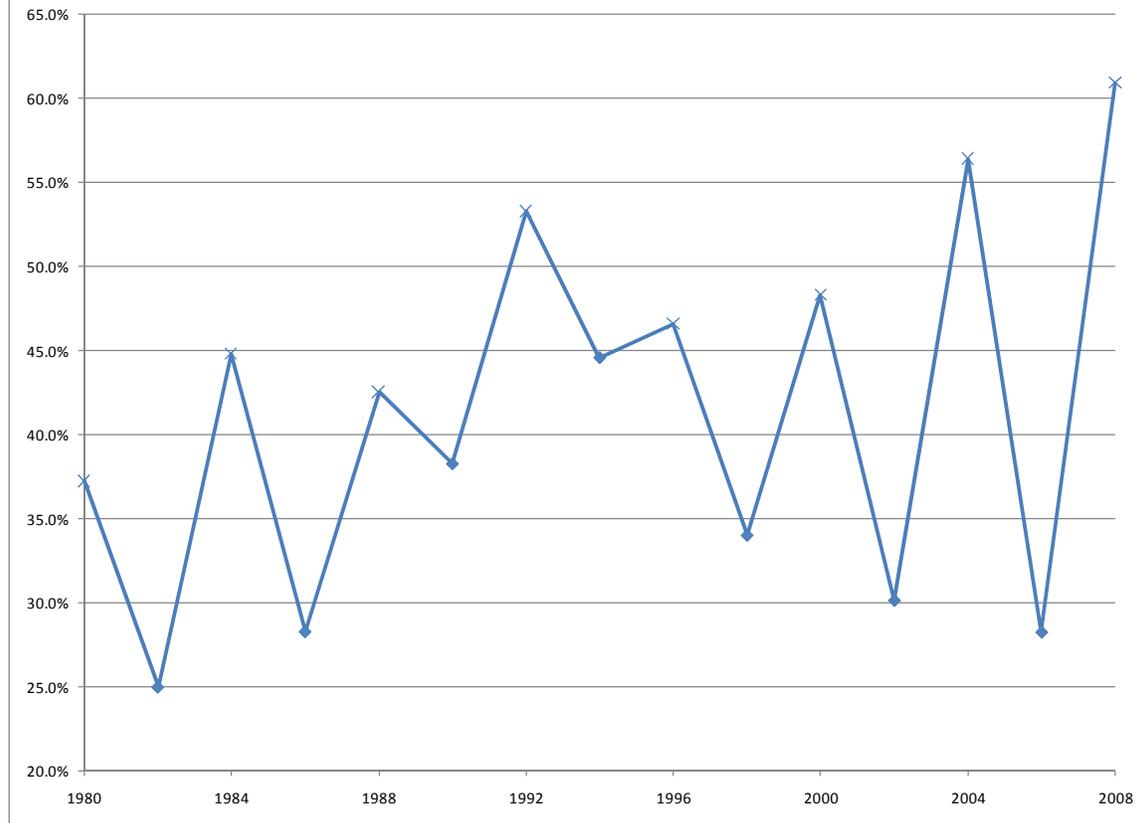
³¹ These turnout rates are based on a denominator of the voting-eligible population (VEP), as created and reported by McDonald (2008). Rather than simply using the population of adults the VEP excludes adults who are not allowed to vote such as non-citizens and (depending on the state) convicted felons. VEP forms the basis for a much more accurate depiction of voter turnout. See also McDonald (2002) and McDonald and Popkin (2001).

³² The six-year terms of senators are staggered so that only 1/3rd of Senate seats stand for election every two years. Thus in any given midterm election only 33 or 34 states hold regular senate elections. With appropriate statistical controls this makes it possible to isolate the independent effect of senate races on turnout.

we also know from research (Kenney 1986), that a senate race boosts primary turnout, especially when that race is competitive.

Given the relationship between the races on the ballot and turnout, it is reasonable to conclude that the District's lack of representation in the Senate effectively suppresses voter turnout in the District. Thus the District's lack of representation is *one* reason why the national voter turnout rate consistently exceeds the District's turnout rate.

Figure 5 DC Voter Turnout Rate Among Voting Eligible Population, 1980-2008



Source: Derived from McDonald (2008).

Arguing that the District's lack of full representation in the House affects turnout is a harder case to make. Would District turnout go up if we kept all factors constant but switched the DC delegate to a full-fledged representative? Logically the value of a given vote increases (however marginally) if the importance of the positions on the ballot increases (however marginally). Therefore a person who is essentially indifferent between voting and not voting might be swayed to vote because of the minor uptick in the value of his vote. Surely this is a small number but at the same time there is no reason to suspect that legitimizing DC's representation would decrease voter turnout by any margin. At worst the effect should be neutral.

7.2 Running for Office

Another type of political participation is running for office and a further way of thinking about the health of a democracy is the quality of candidates who run for political offices. While I have no way to prove it empirically, there are good theoretical reasons to conclude that the District's lack of representation in Congress stymies this form of participation. In other words, the lack of opportunity inhibits some potentially high-quality candidates from entering the electoral arena. To be clear, I am in no way implying that the District lacks quality representation from its elected officials. Eleanor Holmes Norton, for example, enjoys a well-deserved reputation as a highly effective Member of Congress. The House of Representative is brimming with far less capable and accomplished legislators. Yet, the lack of advancement opportunities surely deters some potentially fine leaders from entering public service.

Politics attracts ambitious people. By itself there is nothing wrong with ambition. It can be part of what drives people to do great things. Imagine then a young District resident with ambitions to make a difference. She might be a lawyer, a business executive, a teacher, or perhaps a community organizer. She sees public office as a place to make such a difference but the political path in the District rises up and then terminates on a small hill. If she lived in, say, Baltimore, she can imagine a career that starts at the first step – perhaps city council or the school board. Then if she's good at it, and finds public service enriching, there are multiple paths that extend quite a ways: state legislature, mayor, state office, the U.S. House, the U.S. Senate, perhaps even higher. Note that it's not just that there is a path forward but multiple paths. If the path to the U.S. House is blocked by a strong incumbent then perhaps there is a state office, such as Attorney General, that she can attempt.

Elective opportunities in the District extend only to positions on the Advisory Neighborhood Commission, thirteen city council seats, five of the nine seats on the DC State Board of Education, Mayor, and the delegate to the U.S. House.³³ We know from political ambition theory (Schlesinger 1966; Black 1972) that the choice to run for office, to run for re-election, and to run for higher office is greatly affected by the opportunity structure. If opportunities are few, then the progressively ambitious opt to do something else. In net the lack of opportunity potentially reduces the level of competition in elections and amount of choice available to voters (Maestas, Fulton, Maisel, and Stone 2006).

8. The District and Presidential Elections

8.1 Introduction

While District voters lack full representation in Congress, they do participate fully in presidential elections. This potentially gives District voters some influence over

³³ In addition DC voters elect the symbolic positions of one shadow representative and two shadow senators.

presidential elections and thus potentially gives District voters some influence over the promises candidates for the highest office make. In this section I evaluate this potential influence by examining the District’s impact on the Electoral College and on the presidential nomination campaigns.

8.2 District Influence Over the Electoral College

Prior to ratification of the 23rd Amendment in 1961, District citizens could not vote in the general election for president. The amendment granted the District electors to the Electoral College equal to the number of electors that the District would have were it a state. However, the amendment also limits the number of electors to the same number as “the least populous State.”

This latter limitation does not currently affect the District’s representation on the Electoral College. Given the District’s current population, it would only have three electors even if it were a state. The District would have to be about twice its current size to reach the population threshold for four electors.

One reason why the writers of the Constitution designed the Electoral College was to protect the interests of small states. Each state (and the District of Columbia) composes a higher proportion of the Electoral College than of the overall population. This is illustrated in Table 11, which compares the five biggest with the four smallest states plus the District.

Table 11
Comparative State Contributions to the National Population and Electoral College

State	Population	Electoral Votes	% U.S. Population	Percentage of Electoral College	Electoral College to Population Ratio
<i>5 Smallest States</i>					
Wyoming	493,782	3	0.18	0.56	3.19
District of Columbia	572,059	3	0.20	0.56	2.75
Vermont	608,827	3	0.22	0.56	2.58
Alaska	626,932	3	0.22	0.56	2.50
North Dakota	642,200	3	0.23	0.56	2.45
<i>5 Biggest States</i>					
Illinois	12,419,293	21	4.41	3.90	0.88
Florida	15,982,378	27	5.68	5.02	0.88
New York	18,976,457	31	6.74	5.76	0.86
Texas	20,851,820	34	7.41	6.32	0.85
California	33,871,648	55	12.04	10.22	0.85

While the District population makes up only 0.20% of the nation’s population, its percentage of the Electoral College is 0.56%. Thus the District is *relatively* advantaged –

almost three times more advantaged – under the current system than it would be were the nation to shift to a direct popular vote.

The advantage is relative not absolute. In absolute terms, the District's share of the Electoral College (3 out of 538 or 0.56%) pales in comparison to large states such as California and Texas. However, electoral votes alone potentially misstate the influence that a given state has over presidential elections. The states that receive the most attention from presidential candidates in the general election are not necessarily the biggest states. The states that receive the most attention from candidates are the states that are competitive, where efforts by a candidate may make a difference (Edwards 2005). Thus in the 2000 and 2004 campaigns, for example, large states like Texas, California, and New York were largely ignored by the candidates. Why? They were not competitive. George W. Bush did not need to expend many resources to hold Texas and no amount of resources were likely to swing that state to Al Gore or John Kerry.

Big states that are competitive receive the most attention from candidates (Florida in 2000 and 2004 is the best example). However, even smaller states that are competitive garner a great deal of attention, especially in close elections. Small but competitive states such as Maine, Iowa, and New Mexico attracted major attention by both candidates in the 2000 and 2004 elections (Edwards 2005).

Attention in campaigns does not necessarily translate to concrete policy benefits for the “battleground” states. However, there is some weak evidence that the battleground states do benefit more from targeted federal spending than states that have a lot of electoral votes but are not competitive (Johnson 2005; Shor 2004).

The District's combination of few electoral votes and lack of competitiveness undercuts its potential leverage over presidential candidates. In every election since ratification of the 23rd Amendment, District voters have overwhelmingly supported the Democratic candidate for president. The weakest Democratic performance was Jimmy Carter's 74.8% of the vote in 1980, an election that saw him attract only 41.0% of the popular vote nationwide.³⁴

As I mention in Section 5.4, there are circumstances where a lack of party competition can work in the District's favor. But the lack of party competition for its electoral votes gives the District little to no influence over presidential nominees and thus no hope of securing favorable attention from each election's winning candidate. Not only do Republican candidates ignore the District because they know they cannot possibly win the District's electoral votes, Democratic candidates ignore the District because they know the three electoral votes are theirs for the taking.

This matters for the District because District voters are relatively homogenous in their attitudes towards several critical issues related to the District-U.S. government relationship: Namely, the desire for full representation in Congress, greater financial

³⁴ C.Q. Press. 2005. *Guide to U.S. Elections* Washington: CQ Press.

support from the federal government, and greater local autonomy. Were the District electoral votes genuinely up for grabs in a close election, candidates from both parties would campaign in the District and feel tremendous pressure to support District interests.

To be clear, I am not arguing that District voters should vote differently than they do in presidential or any other type of election. The purpose of this report is to assess the points of political leverage that District citizens now hold and how those points would differ in various circumstances.

8.3 Presidential Nominations

Aside from their vote in the general election, District citizens send delegates to the nominating conventions of both major parties. For two reasons the District's leverage over presidential candidates is trivial. First, the District supplies a tiny number of delegates to the party conventions, mainly because of its small population. In 2004, only 16 out of 1608 delegates to the Republican convention came from the District. For the Democrats it was 39 out of 4332.³⁵ The second reason for the District's lack of leverage is timing. The earliest primaries and caucuses – Iowa and New Hampshire, especially – effectively weed out many contenders and usually help produce a snowball effect behind one candidate. For the District this typically means that nominees for the parties are decided before the District's traditional primary date in May.

For the 2004 Democratic nomination campaign, the District attempted to leapfrog Iowa and New Hampshire with a primary in January 2004. The District gambit had the potential to put candidates in a position where they had to take vocal stands in favor of greater District support and autonomy in much the same way that Iowa parlays its prime spot on the nomination calendar into support for programs such as federal subsidies for ethanol. However, moving the primary violated Democratic Party rules meant to protect New Hampshire and Iowa's traditional "first in the nation" status. While the primary did occur, it had no impact on the nomination because the primary's results were deemed non-binding and most candidates refused to participate in the primary due to Democratic Party pressure (Timberg 2004).

The 2008 Democratic nomination campaign differed from recent history in several ways. Iowa and New Hampshire maintained their first status but several other states frontloaded the calendar. Two states – Florida and Michigan – defied Democratic rules much as the District had in 2004 by jumping the established queue. While Iowa and New Hampshire did effectively weed out most of the field, the 2008 campaign famously lasted well into the summer. As it turned out the District primary (held on the same day as Maryland and Virginia) proved relevant, though not crucial, to the final outcome. Also, the attempted exclusion of the Florida and Michigan results became somewhat material to the final outcome as well. Perhaps the events of 2008 will lead to reforms in the primary calendar, but the chances of the District gaining a major say in the nomination campaigns of either party remain extremely small.

³⁵ Delegate numbers are from *The Green Papers* (www.thegreenpapers.com).

9. Representation in National Capitals

How does the District of Columbia's circumstances compare with other democracies? How are other national capitals represented before their national legislature? What say do other national capitals have over the selection of their national executive? While several different research reports³⁶ compare the District of Columbia to a handful of major capitals, no one, to my knowledge, has updated Nispel and Shafran's (1978) report for Congress on the representational circumstances of all nations with an elected national legislature. This section updates and modifies Nispel and Shafran's report. I analyzed the representational circumstances for the 90 world's democracies defined by Freedom House (freedomhouse.org) as free nations. Nispel and Shafran did not directly address election of the heads of government though I do so here.

Table 12 provides brief summaries regarding each country, their system of governance, representation for the capital city before the national legislature, and capital resident voting rights for the governing chief executive, normally defined as the President in presidential systems and Prime Minister in parliamentary systems. Usually in presidential systems the President heads both the state and the government, as in the United States. Generally in parliamentary systems the Prime Minister heads the government. Parliamentary systems sometimes feature a non-elected head of state (such as the Queen of England in the United Kingdom's case) or a largely ceremonial elected President (as with Ireland). The focus here is on heads of government.

Several points are notable: 1) The United States is the only democracy that does not provide full representation for its capital city; 2) The United States is the only democratic nation that restricts the legislative authority of its capital representatives; and 3) other democracies that once restricted representation for their capital residents largely removed those restrictions.

When it comes to representation for its capital within the national legislature, the United States stands alone. Every single country provides its capital residents with legislative representation close to, if not completely equal to, representation granted in other parts of the nation. The closest exception is perhaps Australia. Canberra – or more precisely the Australian Capital Territory (ACT) – shares many attributes with the District of Columbia. The ACT was carved out of a rural swath of southern New South Wales – roughly midway between the rival cities of Sydney and Melbourne – expressly to serve as the national capital. Just like the U.S. case, the ACT is an enclave of the national government in a federal system orphaned from the states. Even the city's physical design evokes Washington, D.C.³⁷ While the ACT enjoys substantial local autonomy, its policies can nonetheless be overruled by the federal government (Wolman et al 2007). The ACT

³⁶ Most notably Wolman, Chadwick. Karruz, Friedman, and Young (2007), Boyd and Fauntroy (2002), and Harris, Cairns, Carpenter, and Stettner (1997).

³⁷ Indeed American visitors to Canberra readily recognize the various similarities between the Australian capital's layout and the District's. Canberra was largely designed by American architect Walter Burley Griffin.

sends two representatives to the House of Representatives. Australia's other mainland territory – the Northern Territory – also sends two representatives to the lower house (Bennett 1996).

In addition, the ACT and the Northern Territory each elect two senators to the Australian Senate. In contrast, each of Australia's six states sends twelve senators to Parliament (Bennett 1996). Both the ACT and Northern Territory representatives now have the same powers as representatives from the states (Wolman et al 2007).

Is the ACT underrepresented in the Australian Parliament relative to the states? Table 13 presents Australian apportionment in a manner similar to that presented in Table 8. Australia exhibits the same sort of malapportionment characteristics as the United States. On a per capita basis, the smaller states receive more representation than the bigger states. Australia's smallest state, Tasmania, has by far the most per capita representation (about 29,000 residents per legislator), while legislators in the three largest states – New South Wales, Queensland, and Victoria – each represent on average over 100,000 residents. Similar to the District, the ACT lies on the larger state side of the distribution. For example, averaging across the states shows a mean of 70,682 residents per legislator while in the ACT the value is 16% greater at 84,100. In the United States the national average is 450,976 while the District resident to legislator value is 21% greater at 572,059.

Thus in this resident-to-legislator sense the ACT is under-represented in a way a similar to the District. That is as far as the comparisons go. Unlike the District, the ACT has representation in both houses of its national parliament.

Furthermore, unlike the District delegate, the ACT legislators are fully empowered representatives. For example, they have full voting rights. (Indeed, another key distinction between representatives from capital cities around the world is that none are set apart from the institution or circumscribed in power like the DC delegate.)

Finally, the trend for the world's capitals is towards expanded representation. For example, over time Australia gradually increased the representation provided to the ACT. Prior to 1949, the ACT lacked any representation in the Australian parliament. Legislation was then passed creating a single ACT representative in the Australian House of Representatives, but until 1966 that MP's voting rights were limited to just ACT issues. In 1974 Australia added a second ACT representative and gave them both full voting rights. Finally, in 1975 Australia granted the ACT two senators (with full voting rights) (Grundy et al. 1996: 57).

Table 12
Representation and Capital Cities in the World's Democracies

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Andorra	Andorra la Vella	Unitary, Parliamentary	Capital citizens receive full representation in national parliament. Head of government elected by Parliament.
Antigua & Barbuda	Saint John's	Federal, Parliamentary	Capital citizens receive full representation in national bicameral Parliament. Head of government elected by Parliament.
Argentina	Buenos Aires	Federal, Presidential	Capital citizens receive full representation in the bicameral national Congress. The President is elected by popular vote.
Australia	Canberra	Federal, Parliamentary	Located within the federally-controlled Australian Capital Territory. The ACT has representation in the House of Representatives consistent with its population. The ACT has fewer senators in the Senate than other states but the same as other territories. Head of government elected by Parliament.
Austria	Vienna	Federal, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Bahamas	Nassau	Unitary, Parliamentary	Capital citizens receive full representation in national bicameral Parliament. Head of government elected by Parliament.
Barbados	Bridgetown	Unitary, Parliamentary	Capital citizens receive full representation in national bicameral Parliament. Head of government elected by Parliament.
Belgium	Brussels	Federal, Parliamentary	Capital citizens receive full representation in national bicameral Parliament. Head of government elected by Parliament.
Belize	Belmopan	Unitary, Parliamentary	Capital citizens receive full representation in national bicameral Parliament. Head of government elected by Parliament.
Benin	Porto Novo	Unitary, Presidential	Capital citizens receive full representation in national legislative chamber. The head of government, the president, is directly elected by absolute majority.
Botswana	Gaborone	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Brazil	Brasília	Federal, Presidential	Capital citizens receive full representation in the bicameral national Congress. The president is elected by popular vote; capital citizens have same vote as all other citizens.
Bulgaria	Sofia	Unitary, Presidential	Capital citizens receive full representation in national legislative chamber. The head of government, the president, is directly elected by absolute majority. Capital citizens have same vote as all other citizens.
Canada	Ottawa	Federal, Parliamentary	Capital citizens are constituents of the province of Ontario and maintain the same voting rights as all citizens. Head of government elected by Parliament.
Cape Verde	Praia	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Chile	Santiago	Unitary, Presidential	Capital citizens receive full representation in the bicameral national Congress. Head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Costa Rica	San José	Unitary, Presidential	Capital citizens receive full representation in the unicameral National Congress. Head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Croatia	Zagreb	Unitary, Presidential	Capital citizens receive full representation in the bicameral national Congress. The president is elected by popular vote; capital citizens have same vote as all other citizens.
Cyprus (Greek)	Nicosia	Unitary, Presidential	Capital citizens receive full representation in the unicameral national Congress. The head of government is the president elected by popular vote. Capital citizens have same vote as all other citizens.
Czech Republic	Prague	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.
Denmark	Copenhagen	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Dominica	Roseau	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.

Table 12
Representation and Capital Cities in the World's Democracies

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Dominican Republic	Santo Domingo	Unitary, Presidential	Capital citizens receive full representation in the bicameral National Congress. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
El Salvador	San Salvador	Unitary, Presidential	Capital citizens receive full representation in the bicameral National Congress. The head of state is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Estonia	Tallinn	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Finland	Helsinki	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
France	Paris	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of state (President) elected through popular vote. Head of government (PM) appointed by President.
Germany	Berlin	Federal, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Ghana	Accra	Unitary, Presidential	Capital citizens receive full representation in the unicameral National Congress. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Greece	Athens	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Grenada	St George's	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Guyana	Georgetown	Unitary, Presidential	Capital citizens receive full representation in the unitary national Assembly. The president is elected by the Assembly.
Hungary	Budapest	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Iceland	Reykjavík	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
India	New Delhi	Federal, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Indonesia	Jakarta	Unitary, Presidential	Capital citizens receive full representation in the bicameral National Congress. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens
Ireland	Dublin	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Israel	Jerusalem	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Italy	Rome	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Jamaica	Kingston	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Japan	Tokyo	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Kiribati	South Tarawa	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Latvia	Riga	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Lesotho	Maseru	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Liechtenstein	Vaduz	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Lithuania	Vilnius	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Luxembourg	Luxembourg	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Mali	Bamako	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Malta	Valletta	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Marshall Islands	Majuro	Unitary, Presidential	Capital citizens receive full representation in the bicameral National Congress. Marshall Island's Head of state is the President; the president is elected by popular vote. Capital citizens have same vote as all other citizens
Mauritius	Port Louis	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Mexico	Mexico City	Federal, Presidential	Capital citizens receive full representation in the bicameral Congress. The head of government is the President who is elected in a national popular vote.
Micronesia	Palikir	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Monaco	Monaco	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Council. Head of government elected by council.
Mongolia	Ulan Bator	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Namibia	Windhoek	Unitary, Presidential	Capital citizens receive full representation in the bicameral National Legislature. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Nauru	No official Capital	Unitary, Parliamentary	Citizens elect a unicameral Parliament. The head of government is elected by Parliament.
Netherlands	Amsterdam	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
New Zealand	Wellington	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Norway	Oslo	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
Palau	Melekeok	Unitary, Presidential	Capital citizens receive full representation in the bicameral national Legislature. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Panama	Panamá City	Unitary, Presidential	Capital citizens receive full representation in the unicameral national Legislature. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Peru	Lima	Unitary, Presidential	Capital citizens receive full representation in the unicameral National Legislature. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Poland	Warsaw	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral nNational Parliament. Head of government elected by Parliament.
Portugal	Lisbon	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.
Romania	Bucharest	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.
Samoa	Apia	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Legislature. Head of government elected by Parliament.
San Marino	City of San Marino	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Sao Tome & Principe	Sao Tome	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Senegal	Dakar	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Serbia & Montenegro	Belgrade(Serbia) & Podgorica (Montenegro)	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Slovakia	Bratislava	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Slovenia	Ljubljana	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
South Africa	Pretoria (executive) Cape Town (legislative)	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.
South Korea	Seoul	Unitary, Presidential	Capital citizens receive full representation in the bicameral national Legislature. The head of government is the president who is elected by popular vote. Capital citizens have same vote as all other citizens.
Spain	Madrid	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
St. Kitts & Nevis	Basseterre	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
St. Lucia	Castries	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral National Parliament. Head of government elected by Parliament.
St. Vincent & Grenadines	Kingstown	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Suriname	Paramaribo	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.
Sweden	Stockholm	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.

Table 12**Representation and Capital Cities in the World's Democracies**

Nation	Capital	System of Government	Representation in Legislature and Vote for Chief Executive
Switzerland	Berne	Federal, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government is the Swiss Federal Council, a collective presidency, and is elected by Parliament.
Taiwan	Taipei	Unitary, Presidential	Capital citizens receive full representation in the unicameral national legislature. Head of government is the president who is elected by popular vote.
Trinidad & Tobago	Port of Spain	Unitary, Parliamentary	Capital citizens receive full representation in the bicameral national Parliament. Head of government elected by Parliament.
Tuvalu	Funafuti	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
Ukraine	Kiev	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral national Parliament. Head of government elected by Parliament.
United Kingdom	London	Unitary, Parliamentary	Capital citizens receive full representation in the elected House of Commons. Head of government elected by Parliament by the House of Commons.
United States	Washington D.C.	Federal, Presidential	Capital Citizens have no voting representation in the bicameral legislature. They are represented in the House of Representatives by a non-voting delegate and have no representative in the Senate. Head of government is the president who is elected indirectly through a popular vote. Capital citizens have full voting representation in the presidential elections.
Uruguay	Montevideo	Unitary, Presidential	Capital citizens receive full representation in the bicameral national legislature. Head of government is the president who is elected by popular vote.
Vanuatu	Port Vila	Unitary, Parliamentary	Capital citizens receive full representation in the unicameral National Parliament. Head of government elected by Parliament.

Table 13 Residents Per Number of Legislators in Australian Parliament (House and Senate)

Rank	State (Territory)	Population	Legislators	Residents Per Legislator
1	Tasmania	497,312	17	29,254
2	Northern Territory	217,559	4	54,390
3	South Australia	1,581,400	23	68,757
4	Western Australia	2,105,800	27	77,993
5	Australian Capital Territory	336,400	4	84,100
6	Queensland	4,264,590	41	104,014
7	Victoria	5,188,100	49	105,880
8	New South Wales	6,817,100	61	111,756

Source: Population figures derived from the Australian Bureau of Statistics (www.abs.gov.au). Number of legislators derived from Parliament of Australia (www.aph.gov.au).

Likewise, originally Brasilia lacked any representation in its parliament. Indeed, when Nispel and Shafran produced their report in 1978 they stated, “Of the 115 countries studied, 113 were found to provide residents of the capital city with representation in their national legislatures. The United States was one...the second being Brazil, that do not make provisions for such representation.” Brazil granted full representation to Brasilia in 1986 (Wolman et al 2007). The US now stands alone.

Finally, all capitals have full voting rights for their nation’s chief executive within the rules of the given nation’s electoral scheme. This is true of the United States as well. In parliamentary systems, the prime minister is elected by the given parliament (typically the lower house in a bicameral system), so the capital’s impact in that regard extends from its vote for members of Parliament.

10. Conclusion

In terms of actual policy consequences, does it matter that the District lacks full representation in Congress? Is the District demonstrably worse off without a voting member of the House of Representatives? Does it matter that not even a single senator represents the citizens of Washington, D.C. in the nation’s upper house? Advocates for District interests largely assume that all of this matters a great deal. The purpose of this study was to provide evidence for or against the assumption. I sought to do so with an evenhanded, transparent weighing of all the evidence I could reasonably muster.

While the results are not always consistent or definitive, on the whole the evidence clearly demonstrates that District citizens suffer from concrete policy consequences. The study lists policies imposed on the District that would not happen under full representation. It demonstrates that fuller representation would yield millions more per year in funding just for higher education alone, let alone in other funding areas. The report also shows that District citizens are systematically disadvantaged when it comes to receiving constituency service from Congress. Arguably the lack of a full voice in Congress undermines the civic health of the District by discouraging voter turnout and deterring some from pursuing careers in elective public service.

In short, representation does matter. The District's lack of representation in Congress leads to national policies that do not reflect the input and values of District citizens. Likewise, the District's lack of representation in Congress leads to policies directed specifically at the District that do not reflect the input and values of District citizens. District residents pay full federal income taxes but have little control over how those taxes are spent and are demonstrably disadvantaged in how those tax dollars *are* spent.

As the report shows in Section 9, on this issue of representation the United States is utterly unique. It is now the case that the United States is the only democracy in the world that does not provide something approaching full representation for the citizens of its national capital. The evidence in this report suggests that the continued disenfranchisement of hundreds of thousands of American citizens is not just a quirky but benign happenstance of the nation's founding. Disenfranchisement of the District carries with it great symbolic weight, but it also has great substantive importance.

Genuine political and Constitutional hurdles hinder efforts to provide the District full representation. A good first step is to convert the DC delegate to a regular representative. Such a step now seems political possible. Whether it proves Constitutional is up to the interpretation and preferences of a majority of the Supreme Court. However, if the step forward does succeed, then its importance is likely be more symbolic than substantive. Making a real substantive difference, actually affecting policy in the District's favor, requires representation in the U.S. Senate.

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