Good afternoon Chairman Mendelson and members of the Committee. I am Jon Bouker, Chairman of the Board of Directors of DC Vote. DC Vote is a nonprofit public interest organization that works to secure full democracy for the more than half a million residents of the District of Columbia. Thank you for giving me the opportunity to present testimony on Bill 19-993, the “Local Budget Autonomy Act of 2012.” DC Vote strongly supports this bill because it would move District residents one step closer toward enjoying the same rights as all other American citizens.

I. The Need for Local Budget Autonomy

As you know too well, it is unconscionable that in 2012, the District, alone among all cities in the United States, must wait for Congress to pass its budget to spend its own local money. This is the District’s money, the money of the hard working men and women of the District of Columbia, which we pay in taxes and over which Congress should have no say.

But here in the District, year after year, Congress holds our budget hostage and uses our city as its petri dish to impose on us policies we have rejected. It violates the principles of federalism that our forbearers shed blood to protect, it makes a mockery of local control and it is fundamentally unjust.
The enactment of this bill will give the people of the District the opportunity to decide how and when local DC tax dollars should be spent. Under the legislation, the people of the District will decide in a referendum whether the District’s budget finally should be untangled from the federal budget process.

In short, the Local Budget Autonomy Act will give District residents the opportunity to exercise that which is more precious to us than most – our vote – to win the rights enjoyed by every other American. As Congressman Jose Serrano so eloquently stated in his endorsement of this proposal, it is a perfect example of “democracy at its core.”

Passage of this Act also will bolster Congresswoman Norton’s work to pass a budget freedom bill in Congress. This two-track strategy – the Council approving a Charter referendum and Congresswoman Norton pushing for congressional action – will strengthen Congresswoman Norton’s hand by arming her with tens of thousands of votes of DC residents who will cast their ballot in favor of local budget control.

II. The Legal Authority for the Local Budget Autonomy Act of 2012

Not surprisingly, questions have been raised about the legal basis of this innovative and novel legislation. But the Local Budget Autonomy Act stands on solid legal ground.

It is a fundamental principal of statutory interpretation that statutes are passed as a whole and therefore must be read together. The most natural reading of the relevant provisions of the Home Rule Act, when read together as a whole Act, leads to the conclusion that the District can amend its budget process through a referendum. Here is how the relevant provisions work:

- Section 446 of the Home Rule Act prohibits the District from spending its own revenues without congressional approval.
Section 303 of the Home Rule Act expressly authorizes the Council and District voters to amend the District Charter. Section 303 excepts from amendment any “act, resolution, or rule under the limitations” on the Council’s authority in Sections 601 through 603.

The Local Budget Autonomy Act would amend Section 446, which is not on the list of limitations in Sections 601 through 603. Therefore, Section 303 does not prohibit the District from amending Section 446 – the Charter provision that sets out its budget process.

Some may argue that another Home Rule Act provision – Section 603(a) – prevents the District from amending its budget process. But Section 603(a) is not framed as a “limitation” on the Council’s authority, as is the case with some of the other provisions in Section 603. Instead, it is a rule of construction which clarifies that, at the time of passage in 1973, “[n]othing in the Act shall be construed” to change then-existing law regarding the District’s budget process.

There is no doubt that the law, as it stood at the time the Home Rule Act was passed, prohibited the District from obligating or spending local funds without an affirmative congressional enactment. But this is not the legal question raised by the Council’s proposal. Rather, the question is whether the Home Rule Act prohibits the Council from changing this process now. Section 603(a) does not do so.

Some may also argue that the Anti-Deficiency Act prohibits the District from amending Section 446. The Anti-Deficiency Act is a federal statute that prohibits District officials from spending funds that are not covered by an available fund or appropriation. But if the proposed referendum becomes law, the District would be able to obligate and spend local funds pursuant to a valid legislative appropriation. This would fully meet the plain meaning and intent of the Anti-Deficiency Act.
• If Congress wanted to exempt the District’s local budget from the referendum process, Congress would have prevented the District from amending Section 446 – the Charter provision that sets out its budget process – in a straightforward way. Specifically, Congress would have included Section 446 on Section 303’s list of provisions that may not be amended. Congress’s decision not to leads to the conclusion that the District can amend Section 446 through a referendum.

III. Conclusion

The time has come for the District to gain control over its local budget. As you will hear from other witnesses today, there are many practical reasons for budget autonomy. The District has passed a balanced budget every year since 2001. Congress should take a lesson from the District in this regard. In addition, budget autonomy would improve District operations and management; this would save the District, and District taxpayers, money.

Aside from the practical reasons that justify budget autonomy, it is time for the residents of the District of Columbia to gain control over their budget because the current budget process is a violation of our Nation’s core fundamental democratic principles.

It is not difficult to imagine the outrage if tomorrow Congress passed a law telling the residents of Chicago or New York or Los Angeles that they couldn’t spend their own local money until Congress says so. There would be outrage. People would rise up in the streets. Congress would never get away with it. But here in the District, year after year, Congress does get away with it. The time has come for us to say enough.

Mr. Chairman, the Local Budget Autonomy Act will enhance democracy in our Nation’s Capital by granting the District more control over its local affairs. And it will do so in the most democratic way possible – through a vote by the residents of the District. On behalf of DC Vote,
I again commend and thank you for your work on this critical issue. We look forward to working with you in the days, weeks, and months ahead to achieve greater budget autonomy for the District.