

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



**ATTORNEY GENERAL**  
**KARL A. RACINE**

April 14, 2021

Hon. Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Ave. NW  
Washington, D.C. 20500

Hon. Nancy Pelosi  
Speaker  
House of Representatives  
Washington, D.C. 20515

Hon. Kevin McCarthy  
Minority Leader  
House of Representatives  
Washington, D.C. 20515

Hon. Chuck Schumer  
Majority Leader  
United States Senate  
Washington, D.C. 20510

Hon. Mitch McConnell  
Minority Leader  
United States Senate  
Washington, D.C. 20510

Dear Mr. President, Speaker Pelosi, and Leaders Schumer, McConnell, and McCarthy,

As the chief legal officers of our states, we write to address the April 13, 2021, letter sent by 22 of our Republican colleagues who oppose H.R. 51 and S.51, the Washington D.C. Admission Act. We disagree with our colleagues' contention that admission of portions of what is currently the District of Columbia as a state through legislation would be unconstitutional and bad policy. There is ample constitutional support for admitting new states, including parts of the District, through an act of Congress, and recent events have shown that the importance of the District's autonomy.

There can be little doubt that Congress can permissibly create and admit new states. Under Article IV, Section 3 of the Constitution, "[n]ew States may be admitted by the Congress into this Union." Congress has repeatedly done just that. Aside from the first 13 states, every single state, including most of the signatories of our colleagues' letter, was admitted through Congressionally enacted legislation without a Constitutional amendment or anything more.

The Constitution does not prevent Congress from shrinking the size of the federal seat of government and admitting the remainder as a state, as H.R. 51 and S.51 do. Indeed, as the House Judiciary Committee explained in 1992, "[n]owhere does the Constitution limit the Congress from reducing the size [of the District] from 10 miles square to whatever size it deems

appropriate, nor does it limit Congress from doing so for whatever reason it deems necessary and proper and in keeping with its basic commitment to ensure that all its citizens have full and equal standing under the law.”<sup>1</sup>

Our colleagues’ suggestion that Congress cannot shrink the federal seat of power is undermined by their admission that Congress has historically done so. Indeed, in footnote 1 of their letter, they specifically acknowledge that in 1846, Congress shrunk the size of the District by retroceding Alexandria and Arlington to Virginia. The First Congress also altered the boundaries of the District. Our colleagues’ citation-free distinction between shrinking the size of the District to return territory to an existing state as opposed to shrinking the size of the District to create a new state has no basis in the Constitution.

In sum, shrinking the federal seat of government and admitting a new state are fully within Congress’s powers. Respected legal scholars from across the ideological spectrum have said just that. Indeed, Viet Dinh, who served as Assistant Attorney General for the Office of Legal Counsel under President George W. Bush, rebutted each of the points that our colleagues make in his thorough testimony before the U.S. Senate’s Committee on Homeland Security and Government Affairs in 2014.<sup>2</sup>

Aside from its clear legality, H.R. 51 is also sound policy, as recent events demonstrate. On January 6, when a lawless mob invaded our national seat of government, the District stepped in to help. It was Metropolitan Police Department officers who ultimately halted the insurrection and returned order to the Capitol. If the District had been a state, it would have additional resources, including a National Guard, to summon to quell the rebellion. Instead, without statehood, that National Guard was at the command of a President who was more interested in continuing the insurrection rather than ending it.

Our colleagues ignore vital contributions of the District—from providing security and assistance to the federal government to the millions in federal taxes District residents pay—to argue that statehood would lead to an “aggrandizement of an elite ruling class.” This charge ignores the actual reality of the District, where nearly 50% of residents are Black, 13% of residents live in poverty, and all have no voting member of Congress. Simply put, District residents are Americans who seek representation, not an elite ruling class. The notion that the District would be a “super-state with unrivaled power” similarly emphasizes the geographic proximity while ignoring the fact that District residents have been proximate to the federal government but have nevertheless been disenfranchised more than two centuries.

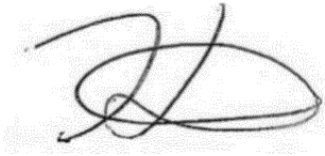
We urge you to pass H.R. 51 and S.51 and to sign the bill into law. We stand ready to defend statehood against meritless legal challenges.

---

<sup>1</sup> Admission of the State of New Columbia to the Union: Hearing and Markup Before the Subcomm. On Judiciary and Education and the Comm. on The District of Columbia of the House of Representatives, 102nd Cong. viii (1992).

<sup>2</sup> Prepared Statement of Viet D. Dinh before the Committee on Homeland Security and Governmental Affairs of the United States Senate, Sept. 15, 2014, *available at* <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Dinh-2014-09-15-REVISED.pdf>.

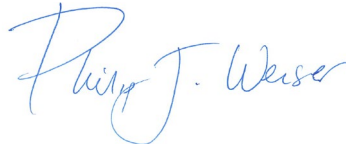
Sincerely,



KARL A. RACINE  
District of Columbia Attorney General



MATTHEW RODRIQUEZ  
California Acting Attorney General



PHILIP J. WEISER  
Colorado Attorney General



WILLIAM TONG  
Connecticut Attorney General



KATHLEEN JENNINGS  
Delaware Attorney General



CLARE E. CONNORS  
Hawaii Attorney General



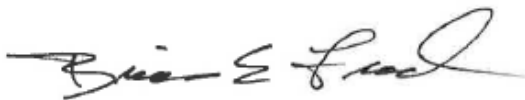
KWAME RAOUL  
Illinois Attorney General



TOM MILLER  
Iowa Attorney General



AARON M. FREY  
Maine Attorney General



BRIAN E. FROSH  
Maryland Attorney General



MAURA HEALEY  
Massachusetts Attorney General



DANA NESSEL  
Michigan Attorney General



KEITH ELLISON  
Minnesota Attorney General



AARON D. FORD  
Nevada Attorney General



GURBIR GREWAL  
New Jersey Attorney General



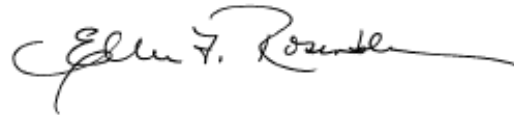
HECTOR BALDERAS  
New Mexico Attorney General



LETITIA JAMES  
New York Attorney General



JOSH STEIN  
North Carolina Attorney General



ELLEN ROSENBLUM  
Oregon Attorney General



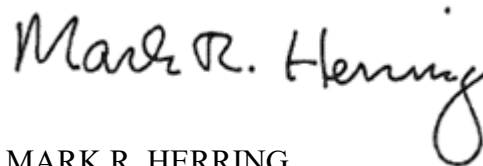
JOSH SHAPIRO  
Pennsylvania Attorney General



PETER F. NERONHA  
Rhode Island Attorney General



THOMAS J. DONOVAN, JR.  
Vermont Attorney General



MARK R. HERRING  
Virginia Attorney General

A handwritten signature in blue ink that reads "Bob Ferguson". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

BOB FERGUSON  
Washington Attorney General