HJR

69

(7)

Date Referred: February 10, 1992 FURTHER REFERRALS:

Date of Committee Action: 3/18/92

The STATE AFFAIRS Committee considered: HJR 69

HOUSE JOINT RESOLUTION NO. 69 STATEHOOD FOR WASHINGTON, D.C.

Urging Congress to grant statehood to the District of Columbia.

RECOMMENDATIONS: [X] the same title
be replaced with CS HJR 69 (STA) [ ] a new title

[ ] have attached amendments(s)
[X] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact _____ [ ] fiscal note(s) _____

[X] zero fiscal note (H) STA CMTE FOR LAM [ ] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
[redacted]		Mike Miller	—		
Tom Hickey II	✓	Gene Kalmus		X	
[illegible]					
[illegible]	—				
[illegible]	—				

Eugene A. Kalmus
CHAIRMAN'S SIGNATURE

102D CONGRESS
1ST SESSION

H. R. 2482

To provide for the admission of the State of New Columbia into the Union.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 1991

Ms. NORTON introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To provide for the admission of the State of New Columbia into the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Columbia Admission Act".

SEC. 2. ADMISSION INTO THE UNION.

Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(d)(1) of this Act, the State of New Columbia (hereinafter referred to as "the State") is declared to be a State of the United States of America, is declared admitted into the Union

on an equal footing with the other States in all respects whatever, and the constitution adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7–8), subject to ratification by a majority of the registered qualified electors of the District of Columbia, is found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence and is accepted, ratified, and confirmed.

SEC. 3. CONSTITUTION.

The constitution of the State of New Columbia shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

SEC. 4. TERRITORIES AND BOUNDARIES.

(a) Subject to the provisions of this section, the State of New Columbia shall consist of all of the territory, together with the territorial waters, of the District of Columbia. The State of New Columbia shall not include the National Capital Service Area of the District of Columbia, which is described in subsection (b). As of the date of admission of New Columbia into the Union, the District of Columbia shall consist of the National Capital Service Area.

(b) The National Capital Service Area, subject to the provisions of section 16, is comprised of the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

(c) Notwithstanding any other provision of this section or of section 16, the boundaries of the State of New Columbia shall include the District Building.

SEC. 5. COMPACT WITH UNITED STATES; CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the State and its people disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any

such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d)(1) Subject to paragraph (2), notwithstanding any other provision of law, the annual Federal payment authorized to be appropriated to the District of Columbia pursuant to section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–3406) shall be authorized to be appropriated to the State of New Columbia.

(2) The Governor shall submit the Governor's request, with respect to the amount of an annual Federal payment, to the Congress not less than seven months before the beginning of a fiscal year for which a request is made. As part of such request, the Governor shall report on the following items:

(A) Services rendered to the Federal Government and the cost to the State of New Columbia for providing such services.

(B) Potential revenues lost because of certain factors brought on by the presence of the Federal Government within the State, including height restrictions on buildings located within the State and revenues not obtainable because of lack of taxable property and business income within the State.

(C) Potential revenues gained because of the presence of the Federal Government within the State.

The Governor shall submit copies of the request to the Congressional Budget Office and to the Office of Management and Budget upon submission of the request to the Congress. Each such office shall report to the Congress, within 30 days after receipt of the copy of the request, concerning the office's analysis of the Federal payment requested and of the items reported by the Governor.

SEC. 6. STATE TITLE TO LANDS AND PROPERTY.

(a) The State of New Columbia and its political subdivisions shall have and retain title or jurisdiction for purposes of administration and maintenance to all property, real and personal, with respect to which title or jurisdiction for purposes of administration and maintenance is held by the territory of the District of Columbia as of the date of the enactment of this Act.

(b) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of New Columbia or its political subdivisions pursuant to this section or reserv-

ing the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of New Columbia into the Union.

SEC. 7. ELECTIONS.

(a)(1) Not more than sixty days after the date of enactment of this Act, the President of the United States shall certify such enactment to the Mayor of the District of Columbia. Not more than thirty days after such certification the Mayor of the District of Columbia shall issue a proclamation for the elections, subject to the provisions of this Act, for officers of all State elective offices provided for by the constitution of the proposed State of New Columbia and for two Senators and one Representative in Congress.

(2) In the first election of Senators from the State (pursuant to paragraph (1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) The proclamation of the Mayor of the District of Columbia required by subsection (a) shall provide for the

holding of a primary election and a general election and at such elections the officers required to be elected as provided in subsection (a) shall be chosen by the people. Such elections shall be held, and the qualifications of voters shall be, as prescribed by the constitution of the proposed State of New Columbia for the election of members of the proposed State legislature. Election returns shall be made and certified in such manner as the constitution of the proposed State of New Columbia may prescribe. The Mayor of the District of Columbia shall certify the results of such elections to the President of the United States.

(c)(1) At an election designated by proclamation of the Mayor of the District of Columbia, which may be the primary or the general election held pursuant to subsection (b), a territorial general election, or a special election, there shall be submitted to the electors qualified to vote in such election, for adoption or rejection, the following propositions:

(A) New Columbia shall immediately be admitted into the Union as a State.

(B) The boundaries of the State of New Columbia shall be as prescribed in the New Columbia Admission Act and all claims of the State to any areas of land or sea outside the boundaries so prescribed

are hereby irrevocably relinquished to the United States.

(C) All provisions of the New Columbia Admission Act, including provisions reserving rights or powers to the United States and provisions prescribing the terms or conditions of the grants of lands or other property made to the State of New Columbia, are consented to fully by the State and its people.

(2) In the event the propositions under paragraph (1) are adopted in such election by a majority of the legal votes cast on such submission, the proposed constitution of the proposed State of New Columbia, adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7–8), shall be deemed amended accordingly.

(3) In the event any one of the propositions under paragraph (1) is not adopted at such election by a majority of the legal votes cast on such submission, the provisions of this Act shall cease to be effective.

(4) The Mayor of the District of Columbia is authorized and directed to take such action as may be necessary or appropriate to ensure the submission of such propositions to the people. The return of the votes cast on such propositions shall be made by the election officers directly to the Board of Elections of the District of Columbia,

which shall certify the results of the submission to the Mayor. The Mayor shall certify the results of such submission to the President of the United States.

(d)(1) If the President finds that the propositions set forth in subsection (c)(1) have been duly adopted by the people of New Columbia, the President, upon certification of the returns of the election of the officers required to be elected as provided in subsection (a), shall issue a proclamation announcing the results of such election as so ascertained. Upon the issuance of such proclamation by the President, the State of New Columbia shall be deemed admitted into the Union as provided in section 2 of this Act.

(2) Until the State of New Columbia is admitted into the Union, individuals holding legislative, executive, and judicial offices of the District of Columbia, including the Delegate in Congress from the District of Columbia, shall continue to discharge the duties of their respective offices. Upon the issuance of such proclamation by the President of the United States and the admission of the State of New Columbia into the Union, the officers elected at such election, and qualified under the provisions of the constitution and laws of such State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of such State, and offices not

required to be elected at such initial election shall be selected or continued in office as provided by the constitution and laws of such State. The Governor of such State shall certify the election of the Senators and Representative in the manner required by law, and the Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 8. HOUSE OF REPRESENTATIVES MEMBERSHIP.

The State of New Columbia upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law, except that such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives or affect the basis of apportionment for the Congress.

SEC. 9. LAWS IN EFFECT.

Upon admission of the State of New Columbia into the Union, all of the territorial laws then in force in the Territory of the District of Columbia shall be and continue in force and effect throughout the State, except as modified or changed by this Act, or by the Constitution of the

State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

SEC. 10. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the District of Columbia or in the United States District Court for the District of Columbia shall abate by reason of the admission of the State of New Columbia into the Union, but shall be transferred and shall proceed within such appropriate State courts as shall be established under the constitution of the State, or shall continue in the United States District Court for the District of Columbia, as the nature of the case may require. And no writ, action, indictment, cause, or proceeding shall abate by reason of any change in the courts, but shall proceed within the State or United States courts according to the laws thereof, respectively. The appropriate State courts shall be the successors of the courts of the District of Columbia as to all cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with such cases, and award mesne or final process therein, and all files, records, indictments, and proceedings relating to any such writ, action, indictment, cause, or proceeding shall be transferred

to such appropriate State courts and shall be proceeded with therein in due course of law.

(b) All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the State, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Columbia in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the substantive or criminal law governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the District of Columbia shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Columbia.

SEC. 11. APPEALS.

Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Columbia or the District of Columbia Court of Appeals in any case finally decided prior to the admission of the State of New Columbia into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State shall be to the United States District Court for the District of Columbia or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Columbia and of the Supreme Court of the State of New Columbia, as successor to the District of Columbia Court of Appeals, in any case pending at the time of admission of the State into the Union, and the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 12. JUDICIAL AND CRIMINAL PROVISIONS.

Effective upon the admission of New Columbia into the Union—

(1) Section 41 of title 28, United States Code is amended in the second column by inserting ", New Columbia" after "District of Columbia".

(2) The first paragraph of section 88 of title 28, United States Code, is amended to read as follows:

"The District of Columbia and the State of New Columbia comprise one judicial district.".

SEC. 13. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the State of New Columbia into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The State of New Columbia shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or

crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the State of New Columbia, or to prevent the State from exercising over or upon such lands, concurrently with the States, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as delineated by the President of the United States or the Secretary of Defense.

SEC. 14. UNITED STATES NATIONALITY.

No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under

any law of the United States or under any treaty to which the United States is or was a party.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

No law or regulation which is in force on the effective date of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act.

SEC. 16. NATIONAL CAPITAL SERVICE AREA.

(a) The National Capital Service Area referred to in section 4 is more particularly described as follows:

Beginning at the point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east of the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Washington Avenue Southwest;

thence southeast on Washington Avenue Southwest to E Street Southeast;

thence west on E Street Southeast to the intersection of Washington Avenue Southwest and South Capitol Street;

thence northwest on Washington Avenue Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the midchannel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northernmost point of the Eleventh Street Bridge;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary; and

thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(b) Where the area in subsection (a) is bounded by any street, such street, and any sidewalk thereof, shall be included within such area.

(c)(1) Any Federal real property affronting or abutting, as of the date of the enactment of this Act, the area described in subsection (a) shall be deemed to be within such area.

(2) For the purposes of paragraph (1) Federal real property affronting or abutting such area described in subsection (a) shall—

(A) be deemed to include, but not limited to, Fort Lesley McNair, the Washington Navy Yard,

the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory; and

(B) not be construed to include any area situated outside of the District of Columbia boundary as it existed immediately prior to the date of the enactment of this Act, nor be construed to include any portion of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any portion of the Rock Creek Park.

SEC. 17. STATEHOOD TRANSITION COMMISSION.

(a) There is established a Statehood Transition Commission.

(b) The Commission shall be composed of thirteen members appointed as follows:

(1) three shall be appointed by the President;

(2) two shall be appointed by the Speaker of the House;

(3) two shall be appointed by the President of the Senate;

(4) three shall be appointed by the Mayor of the District of Columbia; and

(5) three shall be appointed by the Council of the District of Columbia.

(c) The Commission shall advise the President, the Congress, the Mayor, the Council, and the Governor and House of Delegates for the State of New Columbia, as appropriate, concerning necessary procedures to effect an orderly transition to statehood for the District of Columbia. The Commission shall submit such reports as the Commission considers appropriate or as may be requested.

(d) The Commission shall cease to exist 180 days after the date of the admission into the Union of the State of New Columbia.

O

National Rainbow Coalition, Inc.

Reverend Jesse L. Jackson
President and Founder

SENATE MEETINGS ON STATEHOOD

As of January 1,1992, Statehood Senators Jesse L. Jackson and Florence Pendleton have met with 51 senators to appeal for support for statehood for the District of Columbia.

Original Co-Sponsors of S. 2023, the DC Statehood Bill (17)
Senator Adams (WA)
Senator Cranston (CA)
Senator Gore (TN)
Senator Harkin (IA)
Senator Inouye (HI)
Senator Kennedy (MA)
Senator Kerrey (NE)
Senator Leahy (VT)
Senator Lieberman (CT)
Senator Metzenbaum (OH)
Senator Mitchell (ME)
Senator Mikulski (MD)
Senator Moynihan (NY)
Senator Rockefeller (WV)
Senator Sarbanes (MD)
Senator Simon (IL)
Senator Wellstone (MN)

Indicated They would Vote for DC Statehood Legislation (28)
Senator Adams (WA)
Senator Akaka (HI) **, ***
Senator Biden (DE)
Senator Bradley (NJ)
Senator Cranston (CA)
Senator Daschle (SD)
Senator Dixon (IL)
Senator Gore (TN)
Senator Harkin (IA)
Senator Inouye (HI)
Senator Kennedy (MA)
Senator Kerrey (NE)
Senator Kohl (WI)***
Senator Leahy (VT)
Senator Lieberman (CT) **, ***
Senator Metzenbaum (OH)
Senator Mikulski (MD)
Senator Mitchell (ME)
Senator Moynihan (NY)
Senator Reid (NV)

** Member of the Subcommittee on General Services, Federalism and the District of Columbia
*** Member of the Committee on Governmental Affairs

P.O. Box 27385 • W. _ (202) 728-1192

Senator Riegle (MI)
Senator Robb (VA)
Senator Rockefeller (WV)
Senator Sarbanes (MD) *
Senator Simon (IL)
Senator Specter (PA)
Senator Wellstone (MN)
Senator Wofford (PA)

Undecided
Senator Baucus (MT,
Senator Bentsen (TX)
Senator Bingaman (NM)
Senator Breaux (LA)
Senator Bryan (NV)
Senator Brown (CO)
Senator Burdick (ND)
Senator Conrad (ND)
Senator Danforth (MO)
Senator DeConcini (AZ)
Senator Exon (NE)
Senator Glenn (OH) ***
Senator Graham (FL)
Senator Heflin (AL)
Senator Levin (MI) ***
Senator Nunn (GA) ***
Senator Pell (RI)
Senator Sasser (TN) **, ***

Currently Opposed to DC Statehood
Senator Gorton (WA)
Senator Johnston (LA)
Senator Shelby (AL)

** Member of the Subcommittee on General Services, Federalism

*** Member of the Committee on Governmental Affairs

ALASKA STATE LEGISLATURE

Office of Majority Whip

3111 C STREET, SUITE 508
ANCHORAGE AK 99503
(907) 561-2039

PO BOX V
JUNEAU AK 99811
(907) 465-3875/4894

VICE CHAIR
HEALTH, EDUCATION
& SOCIAL SERVICES

COMMUNITY AND
REGIONAL AFFAIRS

INTERNATIONAL TRADE
AND TOURISM

CHAIR
CHILDREN'S CAUCUS

REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

M E M O R A N D U M

TO: REPRESENTATIVE GENE KUBINA

FROM: REPRESENTATIVE BETTYE DAVIS Bettye

RE: HJR 69 - REQUEST FOR HEARING

DATE: MARCH 2, 1992

I respectively request that HJR 69, a resolution, "urging Congress to grant statehood to the District of Columbia," be scheduled for hearing before the House State Affairs Committee, at your earliest convenience. I have attached for your review a copy of HJR 69 and a sponsor statement.

Your prompt response is appreciated. If you have any questions, please feel free to contact me, or Caren Robinson of my staff, at X3875.

ALASKA STATE LEGISLATURE

Office of Majority Whip

3111 C STREET, SUITE 508
ANCHORAGE AK 99503
(907) 561-2039

PO BOX V
JUNEAU AK 99811
(907) 465-3875/4894

VICE CHAIR
HEALTH, EDUCATION
& SOCIAL SERVICES

COMMUNITY AND
REGIONAL AFFAIRS

INTERNATIONAL TRADE
AND TOURISM

CHAIR
CHILDREN'S CAUCUS

Annie

MAR 2 1992

REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

M E M O R A N D U M

TO: ALL HOUSE MEMBERS

FROM: REPRESENTATIVE BETTYE DAVIS Bettye

RE: CO-SPONSORSHIP OF HJR 69

DATE: MARCH 2, 1992

Attached for your review is a copy of HJR 69. HJR 69 urges Congress to grant statehood to the District of Columbia.

Washington D.C., with a population of 607,00, has more people than Alaska, Wyoming or Vermont. But its elected officials have no real power and the city is denied a voting representative in Congress. The Federal Government treats the District as a colony, controlling local policy on issues ranging from sanitation to abortion and undermining the city's ability to raise revenues.

I believe Washingtonians deserve self-government no less than other Americans. Two bills pending in Congress, H.R. 2482 and S.2023, would admit Washington to the union as New Columbia, the 51st state. These bills are worthy of attention and a vote of approval. Even if statehood fails, debate could suggest intermediate solutions.

Washingtonians have suffered long under second-class citizenship. They were first allowed to vote in Presidential elections in 1964. Permission to elect local officials followed slowly: in 1968, the school board; in 1971, a non-voting delegate to the House of Representatives; and in 1973, the mayor and the city council.

The Home Rule Act of 1973, which granted limited self-rule, contained dictatorial restrictions. The city cannot so much as reschedule garbage collection without asking Congress, for permission, which has 30 days in which to disapprove. Nor can the city determine its own budget or set independent policies.

The Federal presence harms the city fiscally. The District is forbidden to tax nonresidents, many of them Federal workers, who comprise about 60 percent of the work force. Federal properties are also exempt from real estate taxes. The city calculates that all taxing restrictions combines cost it $1.9 billion a year in revenues.

Those who oppose statehood often claim that the Constitution forbids creation of a state in the District. That claim is without merit. The Constitution says only that Congress will exercise exclusive legislative control over a seat of Government that does not exceed 10 miles square. A state could be created that would reduce the size of the Federal enclave but not eliminate it.

How can the United States champion democracy abroad while it disenfranchises District citizens who die in wars and pay taxes the same way other Americans do? There is every reason for Congress to convene hearings and then bring the issue to the floor.

Please help me send the message back to President Bush and our Congressional leaders that we want to see H.R. 2482 passed this year.

After reviewing HJR 69, and you would like to co-sponsor, or have any questions feel free to contact me, or Caren Robinson of my staff, at X3875.

Thanks.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 69

Revision Date: _____ **Department Affected:** Legislative Affairs Agency

Title: STATEHOOD FOR WASHINGTON, D.C. **BRU:** _____

_____ **Component:** _____

Sponsor: Rep. B. Davis

Requestor: House State Affairs Committee **COMPONENT SERIAL NO.** | | | | |

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: House State Affairs Committee **Phone:** 465-4859

Division: _____ **Date:** 3/12/92

Approved by Commissioner: Representative Gene Kubina, Chairman

Agency: House State Affairs Committee **Date:** 3/12/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Rev 10/7/91

ALASKA STATE LEGISLATURE

Office of Majority Whip

3111 C STREET, SUITE 508
ANCHORAGE AK 99503
(907) 561-2039

PO BOX V
JUNEAU AK 99811
(907) 465-3875/4894

VICE CHAIR
HEALTH, EDUCATION
& SOCIAL SERVICES

COMMUNITY AND
REGIONAL AFFAIRS

INTERNATIONAL TRADE
AND TOURISM

CHAIR
CHILDREN'S CAUCUS

REPRESENTATIVE BETTYE DAVIS

DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

S P O N S O R S T A T E M E N T

I appreciate the committee members hearing HJR 69. HJR 69 urges Congress to grant statehood to the District of Columbia.

Washington D.C., with a population of 607,00, has more people than Alaska, Wyoming or Vermont. But its elected officials have no real power and the city is denied a voting representative in Congress. The Federal Government treats the District as a colony, controlling local policy on issues ranging from sanitation to abortion and undermining the city's ability to raise revenues.

I believe Washingtonians deserve self-government no less than other Americans. Two bills pending in Congress, H.R. 2482 and S.2023, would admit Washington to the union as New Columbia, the 51st state. These bills are worthy of attention and a vote of approval. Even if statehood fails, debate could suggest intermediate solutions.

Washingtonians have suffered long under second-class citizenship. They were first allowed to vote in Presidential elections in 1964. Permission to elect local officials followed slowly: in 1968, the school board; in 1971, a non-voting delegate to the House of Representatives; and in 1973, the mayor and the city council.

The Home Rule Act of 1973, which granted limited self-rule, contained dictatorial restrictions. The city cannot so much as reschedule garbage collection without asking Congress, for permission, which has 30 days in which to disapprove. Nor can the city determine its own budget or set independent policies.

The Federal presence harms the city fiscally. The District is forbidden to tax nonresidents, many of them Federal workers, who comprise about 60 percent of the work force. Federal properties are also exempt from real estate taxes. The city calculates that all taxing restrictions combines cost it $1.9 billion a year in revenues.

Those who oppose statehood often claim that the Constitution forbids creation of a state in the District. That claim is without merit. The Constitution says only that Congress will exercise exclusive legislative control over a seat of Government that does not exceed 10 miles square. A state could be created that would reduce the size of the Federal enclave but not eliminate it.

How can the United States champion democracy abroad while it disenfranchises District citizens who die in wars and pay taxes the same way other Americans do? There is every reason for Congress to convene hearings and then bring the issue to the floor.

Please help me send the message back to President Bush and our Congressional leaders that we want to see H.R. 2482 passed this year.

Thanks.

National Rainbow
Coalition, Inc.

Reverend Jesse L. Jackson
President and Founder

LEGAL ISSUES SURROUNDING D.C. STATEHOOD

Analyses provided by:
Professor Jamin Raskin, Professor of Law, Washington College of Law, American University; and
Professor Peter Raven-Hansen, Professor of Constitutional Law, George Washington Law Center; and
Professor Phillip G. Schrag, Professor of Law and Director of the Center for Applied Legal Studies, Georgetown University Law Center

I. DOES CONGRESS HAVE THE CONSTITUTIONAL AUTHORITY TO REDUCE THE GEOGRAPHIC DIMENSIONS OF THE DISTRICT OF COLUMBIA AND FORM A NEW STATE FROM LAND CURRENTLY WITHIN THE DISTRICT?

Answer: Yes. Congress can reduce the size of the District through its exclusive and plenary legislative powers granted by the District Clause of the Constitution (Article I, section 8, clause 17).

A. District Clause provides to Congress exclusive legislative jurisdiction over the seat of government

1. Congress shall have the power to "exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten Miles square) as may by Cession of Particular States and the Acceptance of Congress, become the Seat of the Government of the United States..."

2. This exclusive authority includes the right to dispose of the land, the right to use the land, and the right to carve out any configuration.

B. The District Clause sets a maximum geographic limit but does not set a minimum size requirement for the District

1. Since the District Clause only mandates that the federal district may not exceed 10 square miles, Congress may constitutionally reduce the size of the District and carve out land for the state of New Columbia.

1110 Vermont Ave., N.W. 28-1180 Fax (202) 728-1192

2. **Existing Historical Precedent for Reducing the Size of the District**

a. In 1846, Congress invoked its authority to reduce the size of the District when it retroceded back to Virginia the 33 square miles of the county of Alexandria that Virginia had initially ceded to make up the District.

(1) In Phillips v. Payne, 92 U.S. 130 (1876), the Supreme Court upheld the retrocession thirty years later when it refused to entertain a taxpayer's claim that the retrocession was unconstitutional.

(2) The reduction in size of the present seat of the government is consistent with the District Clause and this historical precedent.

b. The Justice Department's contention that Congress' authority over the size and shape of the District ceased at the time the District became the Seat of Government is, thus, inherently flawed.

(1) The 1846 retrocession coupled with the absence of any constitutional language limiting Congress' exclusive power to exercise its authority over the size and shape of the federal district clearly dispels the argument.

(2) **Historical Precedent Further Establishes that the Framers of the Constitution did not consider the Boundaries of the District to be Permanent**

As noted by Professor Raven-Hansen, the First Congress, significantly consisting of many of the Framers of the Constitution, changed the District's southern border to include portions of what are now Anacostia and Alexandria. Act of Mar. 3, 1791, ch.17, 1 Stat.214. As Raven-Hansen comments, "Neither the 'permanen[cy]' of the seat of government nor the District Clause gave pause to the

thirteen original Framers, including James Madison (author of The Federalist No. 43 (defending the District Clause)), who voted for the amendment. This act clearly reflects that the Framers of the Constitution did not consider the District's initial geographic area to be immutable.

3. **Congressional Articulation of its Exclusive Legislative Authority over the Size and Shape of the District**

In commenting on the Congress' authority with respect to the construction of the District Clause in 1846, the House Committee on D.C. stated, "...whether those limits ["ten miles square"] may enlarge or diminish that district, or change the site, upon considerations relating to the seat of government...the limitation upon their power in this respect, is that they shall not hold more than ten square miles for this purpose; and the end is, to attain what is desirable in relation to the seat of government. [House Comm. on D.C 1846, 3-4]

4. **Reading the District Clause in Context with a Subsequent Constitutional Provision further Establishes Congress' Power to Alter the Size and Shape of the District**

Immediately following the District Clause in the same paragraph of the Constitution, the Framers granted to Congress the authority "to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings...." (U.S. Const. art. I, § 8, c. 17).

Congress does not exhaust its authority pursuant to the Forts and Magazines Clause when it uses it to acquire and convey these places. As noted by Professor Raven-Hansen "If it can thus change the form of such federal places, then it has 'like authority' to do the same to the District. This is not the strained analogy of the advocate; it is the Framers' own, expressly written into the Constitution."

II. IS A CONSTITUTIONAL AMENDMENT NECESSARY TO ESTABLISH D.C. STATEHOOD?

Answer: No. All that is required is a simple majority in the House and the Senate and presentment to the president for his signature. Never has the admission of a new state required ratification by other states.

Furthermore, a constitutional amendment is not necessary to permanently establish a new state out of the District of Columbia. The District Clause of the Constitution (Article I., section 8, clause 17) which grants to Congress exclusive legislative authority over the seat of the government enables Congress to create New Columbia out of the District and thereby permanently relinquish the land and the power to legislate over it.

A. Methods of Admission into the Union

1. The Constitution does not require new states to follow any specific procedure for admission. Article IV., section 3, clause 1.

2. All that is required is that the new state

   a. has a "Republican form of government" Article IV, section 4; and

   b. if formed from an already existing state, obtain the consent of the affected state. Article IV, section 3, clause 1 (see issue III. for reasons why Maryland need not consent to the formation of New Columbia)

3. All new states have been admitted through the legislative process (passage in House and Senate by vote of simple majority and then approval by president).

   a. Admission by Enabling ACt - Congress establishes the procedures for the drafting and the ratification of the proposed state constitution.

   b. Admission by Admission Act - Like the District of Columbia, a statehood applicant can draft its own constitution without an enabling act or Congressional instructions.

B. Congressional Requirements

1. the people, through some democratic process, express their desire to become a state (D.C. had a referendum, voted for statehood, and drafted a constitution);

2. the people agree to accept the republican form of government practiced in the United States; and

3. there are sufficient people and economic wealth to support a state.

C. Congressional Legislative Authority over the Seat of Government

1. Pursuant to the District Clause, Congress will continue to possess continuing exclusive legislative authority over the seat of government which will now consist of the National Capital Service Area (as defined in the Home Rule Act).

2. Once New Columbia is admitted to the Union, Congress has no power to expel it or revoke its admission into the Union.

3. By passing an act of admission of New Columbia, Congress does not abrogate its constitutional authority to legislate over the seat of government (the National Service Area).

   a. Rather, Congress permanently relinquishes its power to legislate over the territory of New Columbia which formerly belonged to the District.

   b. By carving out the land of New Columbia from the former District, this land no longer constitutes the seat of government, and, thus, is no longer subject to the District Clause of the Constitution.

4. **Department of Justice Argument that the District Clause bars Congress from Approving Statehood Fails**

a. During the hearings on H.R. 51, Assistant Attorney General Stephen A. Markum argued that once D.C. became the seat of government envisioned by the District Clause, then Congress was no longer in a position to "abrogate its constitutional power to exercise exclusive legislation [over it]".

b. As discussed supra, the exclusive legislative authority granted to Congress by the District Clause includes the power to delegate legislative authority permanently.

(1) As noted by Professor Schrag, the Department's argument would effectively render unconstitutional the 1846 retrocession of Alexandria county to Virginia since Congress arguably did not have the authority to perform this conveyance.

III. IS MARYLAND'S CONSENT REQUIRED BEFORE CONGRESS CAN ADMIT NEW COLUMBIA INTO THE UNION?

Answer: No. Maryland's formal consent is not a constitutional prerequisite to statehood. Maryland's consent is not required because Maryland, in its 1791 cession of land to the federal government, expressed its intent to permanently and unconditionally relinquish its sovereignty over the territory.

A. Constitutional Provision Requiring Consent does not Apply

1. The Admission Clause of the Constitution (Article IV, section 3, clause 1) provides that "no new state shall be formed or erected within the jurisdiction of any other state... without the consent of the legislatures of the states concerned as well as of the Congress."

2. This constitutional limitation applies to the divestiture of the non-federal parts of the District of Columbia only if the divestiture would cause the land to automatically revert back to Maryland, thereby requiring Maryland's consent.

3. The unequivocal language employed by Maryland in its 1791 cession of land for the federal District, coupled with the fact that most state cession statutes expressly provide for the return of the ceded land upon termination of the federal use, implies that the federal divestiture of land creating New Columbia would not cause a reversion to Maryland.

4. Significantly, an implied reversionary interest runs counter to long-established, unequivocal and controlling Maryland law.

B. Language of Maryland Cession Act unequivocally and permanently relinquished Maryland's power over the land

1. The Maryland Cession Act acknowledged the land "to be <u>forever ceded and relinquished</u> to the Congress and Government of the United States [in] <u>full and absolute right and exclusive jurisdiction</u>... pursuant to the tenor and effect ...of the Constitution of the Government of the United States".

2. The language of Maryland's act is diametrically opposed to the terms most states use when ceding land for federal use and providing for reversion of the land upon termination of the federal use ("reverter" or "condition subsequent").

3. Maryland's omission of a reverter provision reflects its intent to permanently relinquish jurisdiction over the ceded land. This is especially true in light of the fact that in 1846, Congress assumed Virginia's consent necessary when it retroceded Alexandria county to Virginia. As the terms of Virginia's cession were identical to those of Maryland's original cession agreement, retrocession of the land did not automatically occur upon the termination of the federal use.

4. The divestiture of the non-federal parts of D.C. by the United States does not necessitate implying a reverter provision into Maryland's original cession act, and,thus, the consent of the State. In fact, Maryland law forbids implying a reversionary interest.

   a. **Long-established, unequivocal, and controlling Maryland law prohibits an implied reverter or condition subsequent**

      (1) The Maryland Courts of Appeals have historically insisted upon the inclusion of specific words in the grant expressly indicating an intent for the grant to be void if the condition is no longer carried out (ie. the ceded lands are no longer being used for the federal purpose).

      (2) Furthermore, Maryland courts do not imply a condition subsequent when the grant includes a statement of the specific purpose of the land.

(3) Thus, according to Professor Raven-Hansen, "the Maryland rule is thus harsh but clear...'[U]nyielding insistence upon language expressly voiding the gift in cases of diversion from the declared use is an established Maryland rule in the construction of written instruments; in the absence of language expressly stating that such a diversion shall effect a forfeiture, the gift is absolute and not conditional (quoting Polster v. Comm'r of Internal Revenue 1960)

b. The Sole Exception to this General Rule which Forbids Implying Condition Subsequents does not Apply to Maryland's Act of Cession

The Supreme Court, in S.R.A. v. Minnesota, 327 U.S. 558 (1946), suggested ,in dictum, that a reversion could be implied in an act of cession in accordance with Article I, section 8, clause 17 (Maryland's original cession stated that it operated "pursuant to the tenor of Article I) when federal use of the land was terminated.

(1) The Court's reasoning, however, renders the result inapplicable in this case. In S.R.A., the Court held the reversion to be necessary so as to avoid the creation of scattered pockets of "no man's land" or land of uncertain jurisdiction.

(2) The creation of New Columbia from lands within the current District will in no way result in lands of uncertain authority. Rather, as noted by Professor Raven-Hansen, the federal jurisdiction will merely surrender to the State's jurisdiction.

IV. CAN A CITY BE A STATE?

Answer: Yes. The geographical size of a proposed state is irrelevant. The District of Columbia meets the three traditional statehood tests imposed by Congress.

A. Historical Criteria upon which Statehood Determinations are made:

1. the people, through some democratic process, express their desire to become a state (D.C. had a referendum);

2. the people agree to accept the republican form of government practiced in the United States; and

3. there are sufficient people and economic wealth to support a state.

V. DOES GRANTING STATEHOOD TO NEW COLUMBIA REQUIRE THE REPEAL OF THE TWENTY-THIRD AMENDMENT TO THE CONSTITUTION WHICH GRANTED DISTRICT RESIDENTS REPRESENTATION IN THE ELECTORAL COLLEGE AND THUS THE RIGHT TO VOTE FOR PRESIDENTIAL CANDIDATES?

Answer: No. The 23rd Amendment will not serve to bar D.C. Statehood. Admission of New Columbia will either serve to impliedly repeal the Amendment or merely render it moot and obsolete. Congress may also adapt the Amendment to the creation of New Columbia.

A. Admission of New Columbia into the Union would render the 23rd Amendment inapplicable to the now non-federal land

1. The 23rd Amendment provides that the residents of the seat of government are to participate in the electoral college.

2. Once admitted to the Union, the lands constituting the State of New Columbia would no longer be a part of the seat of government, thus, the 23rd Amendment would not apply.

B. Purpose and Intent of the 23rd Amendment would be Fulfilled

1. **Intent was to provide Federal District residents with the right to vote for president.**
   As noted by Professor Peter Raven-Hansen, the intent of the 23rd Amendment was to assure that the residents of the "populous 'District constituting the seat of government' participated in the electoral college.

2. **Federal enclave residents will vote in New Columbia.** Once the non-federal parts are carved away from the federal enclave, few people are expected to reside and vote in the seat of government. Nevertheless, New Columbia's Constitution extends the right to vote to the enclave residents. Citizens of all other federal enclaves vote in the elections of their forum states.

3. **To facilitate this, Congress may adapt the 23rd Amendment to the creation of the state of New Columbia.**
   Congress may enact legislation granting federal enclave residents the right to vote in New Columbia just as it did when it provided for Americans overseas to participate in state elections at home.

[Overseas Voting Rights Act, 42 U.S.C. section 1973dd-1 et seq.]

C. Legal Precedent Exists for Rendering Moot a Constitutional Provision

1. Article I, Section 9, limiting the tax imposed on imported slaves to $10, remains on the books. Thus, rendering the 23rd Amendment obsolete yet unrepealed is neither unprecedented nor unconstitutional.

D. The Congressional Act of Admission of New Columbia may serve as an Implied Repeal of the 23rd Amendment.

1. By admitting New Columbia to the Union, Congress grants to the new state all of the rights and privileges of statehood including national suffrage rights.

2. As noted by Professor Raven-Hansen, the Act of Admission may, thereby, act as constitutional enabling legislation and impliedly repeal an inconsistent provision, such as the 23rd Amendment.

a. An example of the dynamics of an implied repeal similarly occurs when the doctrine of sovereign immunity is limited by federal legislation. State's otherwise absolute immunity to unconsented suits for damages in federal court pursuant to the Eleventh Amendment is limited by federal legislation providing for private suits against states that discriminate in employment on the basis of race, color, religion, sex, or national origin.

E. The Repeal of the 23rd Amendment prior to admission of New Columbia would unintentionally negate the national suffrage rights granted to residents of the District of Columbia

1. As noted by Professor Jamin Raskin, a premature repeal of the Amendment would have "an unforeseen but devastating effect on the District of Columbia".

2. If the 23rd Amendment is repealed and New Columbia does not become a state prior to the Presidential election, District residents will be left without the right to vote in the election.

VI. WHAT WILL STATEHOOD MEAN FOR THE DISTRICT OF COLUMBIA?

A. Voting Representation in Congress
Statehood would give us political empowerment - two voting U.S. Senators and a voting Representative.

B. Legislative Autonomy
Presently, legislators of other states legislate for the District of Columbia. Statehood would give us voting federal legislators who represent our interests.

C. Budgetary Autonomy
Even though 87 percent of the District's budget comes from District residents, and only 13 percent from the federal government, Congress and the President control 100% of how we spend it. Statehood would give us self-determination and economic autonomy.

D. Judicial Self-Determination
Unlike all other states, all judges and prosecutors in the District are appointed by the President, who is not accountable to the people of the District. Statehood would give us control over our courts.

E. A Fair Funding Formula
The Washington Post says the District is being cheated out of $1.8 billion because of an unfair federal funding formula. Two voting U.S. Senators would change that and protect other interests as well.

F. Negotiation of Fair and Reciprocal Taxes
The District is losing $1.2 billion because, by law and unlike any other state, it is prohibited from negotiating a fair and reciprocal tax relationship with its neighboring states. Statehood would give us the same right as all other states to enter into such agreements.

National Rainbow
Coalition, Inc.

Reverend Jesse L. Jackson
President and Founder

**TESTIMONY BEFORE THE COMMITTEE ON THE DISTRICT OF COLUMBIA
SUBCOMMITTEE ON JUDICIARY AND EDUCATION
By Statehood Senator Jesse L. Jackson
Thursday, November 14, 1991**

INTRODUCTION:

Mr. Chairman and distinguished members of the subcommittee on the District of Columbia, Representatives Dymally, Dellums, Stark, Wheat, Holmes Norton, Lowery, Bliley, and Rohrabacher, ladies and gentlemen.

Let me express my thanks to the Chairman, Representative Dymally for inviting me to speak before you today on our case for statehood for the District of Columbia. I would also like to express my gratitude to Representative Eleanor Holmes Norton for introducing the DC Statehood Bill, H.R. 2482, and for her tireless efforts to expand our democracy to include the nearly 650,000 disenfranchised citizens of the District of Columbia. I also give my deepest thanks to the people of Washington, D.C. who have elected me to appear before you today on their behalf and appeal to you to accept our petition for admission to the Union.

Mr. Chairman, for the record, I would like to submit three documents. The first is a letter I sent to Fresident Bush in which I appealed to him to consider the undeniable case for DC Statehood. The second document I would like to introduce into the record is a statehood primer which we prepared for the purpose of educating the public as to the strong case for statehood. It assumes no prior knowledge of the statehood issue or of the District of Columbia's historic or current predicament. This document may serve as a reference manual for yourselves and your staff as it addresses all of the moral, economic, political, historical, legal and constitutional questions raised by H.R. 2482, the bill before us today.

The final submission I would like to make is the report of the Commission on Budget and Financial Priorities of the District of Columbia ("The Rivlin Report"). The Rivlin Commission was convened to study the District's economic status and the relationship between the District and the federal government as it relates to the District's economy. In its report, "Financing the Nation's Capital", the Commission made several recommendations as to how the federal government can restore fairness and justice to the District government and taxpayers.

The existing relationship between the District of Columbia and the federal government violates our national heritage and the very principles upon which our country was founded. Ironically, the residents of the capital of world democracy find themselves in a situation which is patently undemocratic.

For as long as the non-federal parts of the District of Columbia remain under federal control, DC residents, unlike citizens of any other jurisdiction in this nation, must endure undue federal intervention and constraints upon our sovereignty. Congress may, in fact, limit our already limited sovereignty if it so chooses. Only when DC is admitted to the Union as a state will its residents be on an equal footing with all other states, and thus, share the same basic and fundamental rights and privileges with all other American citizens.

The case for DC Statehood can be summarized in ten words. As I will demonstrate today, DC Statehood is: (1) morally right, (2) rationally sound, (3) economically feasible, (4) legally possible and (5) constitutionally permitted. Thus, if our petition to admit the non-federal parts of the District of Columbia to the Union is considered on the merits and the substantive arguments, it cannot be denied.

I. DC STATEHOOD IS MORALLY RIGHT

The American Revolution was declared upon the principle that "taxation without representation is tyranny". DC presently has 639,000 residents. This is nearly as many or more people than six states -- Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000) and South Dakota (699,000). DC residents pay more taxes than eight states. We have people enough, pay taxes enough, and in times of war bleed and die enough, and yet, we have no federal voting representatives.

DC residents have served their country in every war since the War for Independence. During the Vietnam War, DC had more casualties than ten states, and more killed per capita than 47 states. The District of Columbia had more total reservists in the Persian Gulf than nineteen states (including Puerto Rico), and more per capita than all but four -- Mississippi, Louisiana, Georgia, and West Virginia. We believe these same honorable young men and women should have returned home with the right of self-determination -- the principle for which they ostensibly risked their lives in Kuwait.

At its core, the situation in the District of Columbia, while not exactly parallel, is not unlike the situation in Soweto or in the bantustans of South Africa. In Soweto and the bantustans, they have puppet officials -- a mayor, police and fire chief -- who are extensions of the apartheid government. They administer laws and

funds on behalf of the apartheid government, but they do not possess real power or truly govern. The ANC has always rejected those elections because of the pretense of democracy associated with them.

Unlike South Africa, the people of DC can freely, fairly and legitimately elect the Mayor and the District Council of our choice, appoint our own police and fire chief, and administer funds from Congress. But like South Africa, we have no voice and no vote in Congress when it comes to policy, laws, or budgets. Congress and the President have the final word over all of our laws and budgets. Ours is not a democratic government of, by and for the people. We do not govern or make policy. Congress does. We administer on behalf of the federal government. Our sole federal representative, the Honorable Eleanor Holmes Norton, may not cast our vote on the floor of the House. Thus, we are denied the protections of "checks and balances", a dynamic so central to our form of government. In DC, the amount of protection we receive from this dynamic is limited to the judicial redress we receive <u>after</u> we have been wronged.

In South Africa, the apartheid government is not bound by any policy, law, or budget desired or designed by the people of Soweto or the bantustans. They are at the mercy of Pretoria. Similarly, DC has limited self-rule, which Congress can modify or remove for any or no reason at all, any time it so chooses.

For example, in 1975, Congress attached a rider to a DC appropriations bill (88 Stat. at 826) that prohibited DC residents from using the swimming pool at the local Woodrow Wilson High School after 9:00 p.m. More recently, the Senate, by voice vote, approved the transfer of seven thousand federal jobs from DC to West Virginia and Virginia. Concurrently, President Bush nearly prevented the passage into law of a fair funding formula for the federal payment when the District government attempted to use locally-raised revenues to extend the freedom of choice to low-income women in the District. Presently, a DC initiative aimed at curbing the flow of weapons of destruction is at risk of unjust interference by certain members of Congress. In no other jurisdiction could such unjust federal intervention occur.

Congress may not only regulate or modify such local practices, but it may also, if it so desires, eliminate the entire local government and rule directly. Thus, DC is at the virtual mercy of the will of Congress and the President. Black South Africans cannot vote in Pretoria. Blacks, whites, and browns in DC cannot vote in Washington.

The recent confirmation process of Justice Clarence Thomas to the Supreme Court tragically reflected how the District of Columbia,

which is 67 percent African American, was again left out of the equation. As an elected official representing the interests of the residents of Washington, D.C., I should have had the right to vote, rather than the opportunity to testify on the nomination of then

Judge Thomas. I received 50,000 more votes in DC's statehood delegation elections than Wyoming's Senator Alan Simpson received in his U.S. Senate race. I received only 2,000 votes fewer than Senator Joseph Biden who served as chairman to the forum which would ultimately determine the scope of our constitutional rights for the next generation.

Not only does the District lack control over the appointment of Supreme Court justices, but it is equally precluded from participating in the selection of any member of the judiciary, federal or local. The President appoints judges to the local bench, while the District has no senator to participate in the confirmation of federal judges. In fact, two of President Reagan's fourteen white male Republican appointees to DC's federal courts were rejected by senators of other states. The District had no input whatsoever in this matter.

This problem is further exacerbated by the reality that the United States Senate does not even remotely reflect the multiracial and multicultural composition of our society. In our nation's history, only three African Americans have ever served in the United States Senate -- only one this century, Senator Edward Brooke (R-MA). Presently, the Senate consists of ninety-six white males, two Asian American males, and two white females. DC Statehood will expand the Senate and make it more representative of the nation.

II. DC STATEHOOD IS RATIONALLY SOUND

Historically, Congress has granted statehood to a petitioning entity when three criteria were met: (1) when the people democratically express their desire to become a state; (2) the acceptance of a republican form of government (which, incidentally, is the sole constitutional prerequisite for statehood); and (3) enough people and resources to support a state and their share of federal taxes. We meet all three requirements.

DC residents have expressly complied with the civic and constitutional duties traditionally imposed by Congress in statehood determinations. In November of 1980, District residents, by a 3-2 majority vote, passed a statehood referendum. On May 29, 1982, delegates elected by the District of Columbia approved a "Constitution for the State of New Columbia" (as the new state created from the non-federal parts of the current District will be called). The Constitution and a petition for Statehood was transmitted by the Mayor of Washington, D.C. to the U.S. Congress on September 9, 1983. In November of 1990, DC residents, in the

tradition of Tennessee in 1796 and seven subsequent entities, elected their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the fifty-first state.

The final requirement of this three-part test involves the following question: Can the District of Columbia's current population and economy adequately support the state of New Columbia? As I will demonstrate today, the response to this question is unequivocally yes.

III. DC STATEHOOD IS ECONOMICALLY FEASIBLE

Can DC residents provide their fair share of federal taxes? Yes. Today, the residents of this populous District pay nearly $1.5 billion annually in federal taxes. This is more total federal taxes than eight states. The per capita tax payment for DC residents is $500 above the national average. As a result, DC pays more taxes per capita than 49 states. Only Alaska pays more. It is quite ironic that this formula exists in the capital of a nation which was founded upon the principle that "taxation without representation is tyranny".

Can DC afford statehood? Yes. President Bush avidly promotes statehood for Puerto Rico. The per capita income in Puerto Rico is $6,000, for the nation is $19,000, and for DC is $24,000. It is estimated that the cost of adding Puerto Rico to the Union on an "equal footing" with all other states (as constitutionally-required) would cost the federal government an additional $17 billion. Though I want to make it very clear that we support Puerto Rico's right to self-determination, our situation is markedly different. Unlike the Puerto Ricans, District residents have affirmatively voted for statehood and do pay federal income taxes.

When President Bush was first questioned as to why he opposed statehood for the non-federal parts of the District of Columbia, he replied that DC was not an economically viable entity. He explained that the federal government subsidized the District. In fact, the exact opposite is true. DC effectively subsidizes both the federal government and surrounding states. The excessive tax payments burdening DC residents reflect this awesome responsibility.

Contrary to popular belief, until 1991, locally-raised revenues constituted 87% of the District government's budget. Equally unknown, yet significant, is the fact that seventy percent of the District's working residents are employed by the private sector, not by the local or federal government.

There is a growing and diverse private economy in the District. In fact, DC leads the nation in earnings in a number of fields: communications, law, finance, business services, insurance, real estate, hotels and lodging. Dr. Andrew Brimmer, an economist and former member of the Federal Reserve Board, concluded that New Columbia, with its predominately service-oriented economy, would be an economically viable entity. In light of the national trend favoring growth in the service industries, DC's service-oriented economy is well-positioned to become even stronger.

Currently, the District's economy is both sufficient and stable enough to sustain the state of New Columbia. DC presently has sufficient population to form a tax base and assure a steady source of revenue. As a state, we would probably gain in population. I would argue, however, that it is the existing relationship between the federal government and the District of Columbia which serves as the principal barrier to achieving DC's clear potential for economic health.

The unique economic relationship existing between the federal government and the District imposes special costs upon the District while restricting DC's capacity to generate revenue.

Approximately fifty percent of the District's real estate is exempt from taxation because it belongs to the federal government, diplomatic missions or other tax-exempt organizations. In addition, while we understand and support the limitation on the height of buildings in the District (restricted to 130 feet), in purely economic terms, it reduces the income we can collect from property taxes. Additionally, half of all sales in the District are made to the federal government or other tax-exempt organizations, producing no revenue to the District government.

Most importantly, the District is prohibited by law from taxing incomes of non-residents at their source, which results in 60 percent of all income earned in the District being exempt from District taxes. The estimated cost to the District is $1.2 billion. No state must endure such restrictions. In fact, people who work in New York, but live in New Jersey, pay taxes where they work (at the source of the income earned) and get a tax adjustment where they live. <u>All states have the same right</u>. Congress has prohibited the District government from negotiating similar reciprocal taxing agreements with Maryland and Virginia. It is estimated that 300,000 non-residents enter the District each day and earn income which is not taxable by the District government. Only 10,000 District residents earn income in the surrounding states.

The federal government also imposed three other major financial obligations on the District including a $378 million accumulated operating deficit, financial responsibility for congressionally-authorized capital improvements to St. Elizabeths Hospital, and liability for unfunded, congressionally-created pension plans. The federal government's "pay-as-you-go" plan for police officers, firefighters, teachers, and judges was inadequate for workers future security. When limited self-rule was granted in 1974, Congress assumed only 25 percent of the costs, while imposing on the District 75 percent of the liability they created. This clearly represented an unfair District/Federal formula. As the Washington Post reported this week, the unfunded liability will be an estimated $9 billion dollars by the year 2005, possibly higher with greater inflation.

This liability poses the most serious threat to the District's future financial stability. In fact, the Rivlin Commission, in its report, recommended that the federal government assist the District government in its efforts to place the District pension plans on a sound funding basis, including the amortization of the unfunded liability.

The District has been exploited economically. Congress has imposed special costs on the District because it is the nation's capital. While restricting the District's ability to raise revenues to meet those costs, Congress has failed, over the years, to provide adequate compensation through a fair federal formula and payment.

The payment is compensation for services rendered to the federal government such as police and fire protection, crowd control during demonstrations, water, electric, public transportation, and sewer systems. The District, of course, provides such essential services despite the federal government's failure to fairly compensate the District; and the congressional prohibition on taxing the income earned in the District by non-residents. This is particularly unjust, since DC residents, without the assistance of these daily urban dwellers, must bear the burden of the upkeep of the District's infrastructure.

The federal payment--a payment partially in lieu of taxes, but primarily for services rendered to the federal government, not a grant, welfare or a special subsidy--has steadily declined as a percentage of the District's budget since Home Rule. It has declined from 25 percent to 13 percent of the District's current $3.9 billion budget. The federal payment was frozen at $430.5 million since 1985. Taxes foregone increased over 50 percent from 1985 to 1990, to $1.8 billion, while the federal payment remained constant.

The House of Representatives recently passed legislation which would, for the first time, establish a funding formula upon which

to base the federal payment. I applaud this committee for its initiative in passing the legislation and your colleagues in the House for finally acknowledging the inequity of arbitrarily-reached payments offered in exchange for tangible services and foregone revenues. Such a formula will certainly help to stabilize the DC government's budget process. The percentage (24 percent), however, may not totally reflect fairness in terms of compensation for services rendered and taxes foregone due to the federal presence.

The Rivlin Commission, the Dixon administration, and Delegate Eleanor Holmes Norton who sponsored the recent House legislation, all supported a 30 percent figure as just compensation for federal payment determinations. Significantly, in 1973, it was a 30 percent formula that President Richard Nixon recommended when DC made the initial transition to limited home rule. Nevertheless, the House legislation mandating a formula-based federal payment is certainly a step in the right direction.

Today, DC essentially functions as a state, albeit with limited resources. If we had access to resources on an equal footing with all other states -- the right to negotiate reciprocal taxing agreements with Maryland and Virginia, as well as a fair funding formula -- DC's economy could only flourish. This, in turn, will not only benefit the residents of the metropolitan area, but it will also render a great service to the eighteen million tourists who flock to the nation's capital each year.

Not only would statehood give the citizens of DC all of the rights and privileges enjoyed by all other Americans, but the creation of New Columbia would virtually allow us to lower our taxes and provide greater services.

IV. DC STATEHOOD IS LEGALLY POSSIBLE

Statehood for the District does not require a constitutional amendment and ratification by the States. It only requires a simply majority vote in the House and Senate and the President's signature. Every other state admission has been accomplished through congressional legislation. DC does not require, and should not be made, an exception. No entity applying for admission to the Union has ever been turned down by Congress. Again, since we meet all of the historic criteria, we should not be the first.

V. DC STATEHOOD IS CONSTITUTIONALLY PERMITTED

As a panel of legal scholars will demonstrate on Monday, November 18 before this subcommittee, nothing in the United States Constitution prohibits the creation of the State of New Columbia out of the non-federal parts of the District. The District of Columbia will remain the federal seat of government as required by

the Constitution. Our legislative proposal, H.R. 2482, will merely allow New Columbia and the federal seat of government to constitutionally coexist and live harmoniously together.

Contrary to the position of statehood opponents, DC Statehood is not barred by the Constitution's "District Clause" or the 23rd Amendment. Traditionally, opponents have also contended that the creation of New Columbia requires both a constitutional amendment and the consent of the State of Maryland. Neither of these assertions are true. In the interests of time, I will briefly discuss each of these issues as they will be addressed at greater length on Monday:

First, the "District Clause" which grants to Congress "exclusive legislative authority" over the federal seat of government (DC), only mandates that the District is not to exceed 100 square miles. Congress may, therefore, dispose of some land in order to create the state of New Columbia, while preserving the federal seat of government. In fact, Congress reduced the original size of the District in 1846 by returning to Virginia the land originally given by them. This enabled Virginia both to maintain its slave trade which they feared was in jeopardy, and to eliminate their politically-disenfranchised status which was no longer tolerable. Of course, the current "federal seat of government" is comprised of land contributed by Maryland.

The constitutionally-required "federal seat of government" would be preserved by maintaining the District of Columbia in the form of a "National Capital Service Area" consisting of all of the key federal buildings and agencies thereby allowing the federal government to conduct its functions in safety and security -- the original purpose of creating the "federal seat." The Constitution, therefore, does not force a choice between "seathood" and "statehood".

Secondly, the 23rd Amendment, which, in 1964, gave DC residents the belated right to vote for the President of the United States does not bar DC Statehood. By allowing those few residents who remain residents of the federal enclave the right to vote in New Columbia's elections (just as residents of NIH vote in Maryland or military base residents vote in the states they are stationed in), the purpose of the Twenty-third Amendment is fulfilled. Congress could enact clarifying legislation granting federal enclave residents the right to vote in New Columbia, just as it did when it provided for Americans overseas to participate in state elections at home. The 23rd Amendment would be rendered moot and merely join other obsolete yet unrepealed provisions of the Constitution such as the one declaring African Americans to be "three-fifths human".

Third, as discussed at length above, statehood may be achieved by straight legislation. Since the original thirteen states, this is

the way all territories have gained their status. A constitutional amendment is wholly unnecessary and unprecedented for statehood admissions.

Finally, it was the nature and actual language of Maryland's original grant of its land to the federal government for creation of the capital which negates the need for Maryland's formal consent. Maryland's consent is not required because Maryland, in its 1791 cession of land to the federal government, expressed its clear intent to "forever cede and relinquish... in full and absolute right and exclusive jurisdiction..." the land to the federal government. If so intended, state law required that Maryland explicitly state that it expected the land to be returned after the federal government finished using it. Maryland stated just the opposite, thus, its clear intent was to permanently and unconditionally relinquish its sovereignty over the territory.

CONCLUSION

At issue here is the blatant lack of democracy in the center of world democracy. As we rejoice in the birth of fledgling (and impoverished) democracies all over the world, we must recognize this blatant inconsistency. If the Baltic States <u>breaking away</u> from the Soviet Union constitutes international news, so must the efforts of the residents of this nation's capital petitioning to <u>break in</u> to the United States be international news. We have been an identifiable, separate, and stable political entity for a longer period of time than the Baltics have been part of the Soviet Union or Kuwait has been a sovereign entity. We are old enough to vote. In our support of the expansion of democracy all over the world, we must likewise work to expand our democracy at home.

We appeal to you to support H.R. 2482 and thus stand for the sound principles such as self-determination, representation and democracy at home as well as abroad. Thus, we urge you to actively support us in our efforts to gain our rightful representation in the cradle and capital of world democracy, Washington, DC.

Thank you again, Mr. Chairman, and distinguished members of the subcommittee for providing me with this opportunity to testify on statehood. I am now open for questions.

The New York Times

MONDAY, NOVEMBER 25, 1991

EDITORIAL

The D.C. Plantation: Freedom Soon?

The effort to grant statehood to Washington, D.C., could well b come a campaign issue in 1992.

A bill that would admit the District to the Union as New Columbia, the 51st state, was introduced in the Senate on Thursday. And hearings on the House version of the bill saw a welcome burst of enthusiasm. Three Democratic Presidential candidates testified in favor of statehood and others sent messages of support.

That's as it should be. The District's treatment is a scandal, albeit one with a long history. The Federal Government runs the city like a plantation, denying it a voting representative in Congress, forbidding it even rudimentary self-rule and limiting severely its ability to raise revenue.

•

President Bush favors keeping the District on its knees. But Gov. Bill Clinton of Arkansas, Gov. Douglas Wilder of Virginia and Senator Tom Harkin of Iowa testified before Congress that the District deserved to become a full partner in the Union. The three were on the mark.

Washingtonians have long been denied rights that the rest of us take for granted. They weren't allowed to vote in Presidential elections until 1964. And it was not until the Home Rule Act of 1973 that they could elect a mayor and city council; both had previously been appointed.

The Home Rule Act left the Federal Government's dictatorial powers intact. Congress can overturn any law the District council passes. A powerful senator can throw some cash to friends by attaching amendments to the city's budget bill. And one meddlesome Congressman can by himself trigger hearings on any law by simply raising an objection to it.

The Federal Government is not above extortion. Mr. Bush recently vetoed the city budget, forcing the District to ban the use of *locally* raised tax revenues to furnish abortions for impoverished women. And Congress used similar blackmail to force repeal of a law that made gun dealers and manufacturers liable for injuries from assault weapons. The citizens have reinstated the measure; gun-lobbying senators may yet thwart it. The District's non-voting representative, Eleanor Holmes Norton, spends much of her time fending off odious infringements like these.

Fiscal restrictions abound. The Federal Government's real estate is exempt from taxation; the city is forbidden to tax the earnings of commuters, most of whom are Federal employees. District officials say these restrictions cause the city to forgo $1.9 billion in revenues per year. Last year the Federal Government paid a paltry $430 million in return. Denied sources of revenue, the city levies some of the highest taxes in the nation.

Those who oppose statehood typically offer weak constitutional arguments against it. It seems fairly clear, however, that Republicans who oppose statehood do so because the District would send two more Democrats to the Senate.

But most Americans understand democracy well. The issue of statehood for the District raises an obvious question: How can we justify championing democracy abroad while inflicting second-class citizenship in the nation's capital? The answer is obvious, too: We can't.

House State Affairs Committee
Representative Gene Kubina, Chair

DATE: March 18, 1992

PLACE: Capital Room 102

SUBJECT OF MEETING:
HJR 69 - Relating to Statehood for Wash. D.C.
*HJR 3 - Relating to Change Terms of Representatives to four Years
HB 348 - Relating to Grp Health & Life Insurance State Employees
SB 146 - Relating to Limited Privileges for Revoked Licenses
SJR 37 -- Relating to Source Tax

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
[illegible]	D.I.A			[illegible]	→	Y	N	HB 348
MIKE MILLER Mike Miller	Self	Juneau		586-3067	—	Y	N	HJR 69
Juanita Hensley	DPS/DMV	Juneau		465-4335		Y	N	SB 146
Jay Dulany	DMV	5700 E Tudor Anch 99507			264-5559	Y	N	SB 146
Rick Mitford	Senator	Capitol Rm 102		4[illegible]8		Y	N	SJR 37
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	