

Senator Rob Portman
HSGAC Hearing:
S. 51, The Washington, D.C. Admission Act

Thank you, Chairman Peters.

I look forward to hearing the discussion today, but, as you know, I have both practical and constitutional concerns about making Washington, D.C. its own state.

Legally, Congress does not have the power to override the Constitution. D.C. is the only place specifically created by the Constitution in Article 1 as the “seat of Government.” Meaning, it has a special constitutional status completely different from any current or previous U.S. territory that eventually became a state through the Article 4 Admissions Clause. Our Framers gave us a *limited* federal government—one in which Congress only wields the power explicitly granted to it. Here, neither the District Clause nor the Admissions Clause provide Congress with the power to transform the “seat of Government” into a new state. Moreover, D.C. has special constitutional status in the Twenty-Third Amendment, which grants D.C. residents three electoral votes in Presidential elections. We cannot just legislate over these constitutional provisions.

Further, when Maryland authorized the cession of nearly 60 miles of its territory to the federal government for the creation of the District of Columbia in 1788, it did so for the purpose that “congress may fix upon and **accept** [the land] for the seat of government.” When Congress formally accepted the land from Maryland by legislative act in 1790, we explained that the land was “hereby **accepted** for the permanent seat of the government of the United States.” Maryland gave up its land, and we accepted it, so that we could create an independent federal governmental district. Making D.C. into a separate state violates the solemn compact we made over two hundred years ago with Maryland. And, by the way, we’d be creating a state that by acreage comprises less than 6 percent of the next smallest state, Rhode Island. A better option would be to retrocede a large portion of the District to Maryland. Retrocession is the preferable way to provide D.C. residents with voting representation in both chambers of Congress.

This issue has come up before. The states declined to ratify the D.C. Voting Rights Amendment in the 1970s, which would have granted D.C. congressional representation in both Houses of Congress and

repealed the Twenty-Third Amendment. Only 16 states¹ ratified that amendment—22 states short of the required two-thirds number for adoption. Polling today demonstrates the American people are still not interested in eliminating their capital district.

I look forward to hearing from our witnesses.

¹ *Background:* Ohio was one of the 16 states that ratified the amendment on December 21, 1978.