



Second Senate Hearing on DC Statehood Exposes Deep Partisan Rift

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In only the second Senate hearing in U.S. history on the issue, lawmakers heard from witnesses Tuesday on constitutional roadblocks to making the District of Columbia the 51st state, and why it is imperative to empower its disenfranchised population.

The last time senators held a hearing on the issue was 2014, which came more than two decades after the idea of D.C. statehood was first batted around Congress. When House lawmakers heard testimony from D.C. Mayor Muriel Bowser in 2019, it was the chamber's first committee hearing on the issue since 1993.

In 2016, the Council of the District of Columbia adopted a state constitution and boundaries and held a referendum to petition Congress to become a state, with 83% of its population in favor. That referendum has provided the catalyst for the current statehood push.

Speaking before the Senate's Homeland Security Committee on Tuesday, Bowser offered the same arguments she had before the House Oversight Committee two years ago: The District of Columbia had a larger population than two states – Vermont and Wyoming – and its economy is self-sufficient. The District's \$15.5 billion budget is larger than 14 states and the denial of congressional representation for 700,000 of its residents is unacceptable, the mayor said.

Bowser, a Democrat, also took time to point out the ludicrousness of some of the arguments against D.C. statehood put forth two years ago.

“Just to cite a couple: in 2019, we were asked about what would happen to the parking spots for congressional staff if the District becomes a state,” she testified. “We were at a loss to see the correlation between full democracy for 700,000 American citizens and a few parking spaces.”

GOP opponents of the legislation — aptly named S.51 for the proposed 51st state — argued Tuesday, as they did during a House committee vote this spring, that statehood would require a constitutional amendment. They say the 23rd Amendment, which allows D.C. residents to vote in presidential elections, would need to be rewritten or repealed.

While the House's version of the bill passed in April by a 216-208 vote — the second time in two years such a bill was approved by Congress — opponents still argue statehood requires amending the Constitution.

Roger Pilon, a constitutional scholar at the libertarian Cato Institute who testified before the House Oversight Committee in 2019, again spoke about the potential illegality of the state's creation on Tuesday.

In Pilon's view, the Constitution's enclave clause — which enables Congress to govern the District — presented a challenge to legal statehood. He cited an April letter from more than 20 Republican attorneys general who argue D.C. statehood goes against the Founding Fathers' plan for the nation's capital.

“Given the more than 200-year history during which the District of Columbia has existed in its present form — save for the small Virginia portion retroceded in 1847, the constitutionality of which has often been doubted but never tested — there must be a strong presumption by now against the kind of radical changes envisioned by this bill,” Pilon testified. “It simply strains credulity to believe that the Framers, when they drafted the Constitution's enclave clause, imagined anything like the arrangements this bill contemplates.”

Richard Primus, a University of Michigan law professor, countered that the issue of the constitutionality of adding the District of Columbia as a state is straightforward. He said the admissions clause gives Congress the power to admit any new state, he said, so long as the state isn't unlawfully reconfigured.

Primus pushed back on the argument about the Founders' intent, saying it is only based on the fact they had laid out a specific space for the federal district.

“And it's true, the founding generation didn't intend Washington, D.C. to be a state,” he said. “But the founding generation also didn't intend to create a situation in which 700,000 Americans would have no voting representation in Congress. For the Founders, no principle was more central to the Constitution than representative government.”

Congresswoman Eleanor Holmes Norton, a nonvoting delegate representing the District in the House, testified Tuesday before the committee alongside former Senator Joe Lieberman, another D.C. statehood advocate who represented Connecticut in the upper chamber from 1989 to 2013.

Norton noted that 54% of the American population supported D.C. statehood. She said 66 of the 68 square miles that make up the federal district would become the new state, and argued that clearly complies with the Constitution, which dictated no minimum size for the creation of new states.

“Congress has a choice,” the Democratic delegate said. “It can continue to exclude D.C. residents from the democratic process, forcing them to watch from the sidelines as Congress votes on federal and D.C. laws, and to treat them, in the words of Frederick Douglass, as ‘aliens,

not citizens, but subjects.” Or it can live up to our nation’s founding principles and pass the D.C. statehood bill.”

Senator Gary Peters, a Michigan Democrat who chairs the committee, voiced his support of the legislation Tuesday, calling the lack of congressional representation for D.C. residents a stunning contradiction of national values.

But the committee’s ranking member, Republican Senator Rob Portman of Ohio, said constitutional interference by Congress is his problem with the legislation. He said the better option would be to retrocede a portion of District land to Maryland.

“Retrocession is the preferable way to provide D.C. residents with voting representation in both chambers of Congress,” Portman said.