

(202) 378-8863

June 23, 2020

Dear Representative:

The purpose of this letter is to inform you of the abortion implications of H.R. 51 which purports to grant the District of Columbia statehood.

Article I of the U.S. Constitution says that Congress holds complete legislative authority over the District of Columbia (“exclusive legislation in all cases whatsoever”). That is why the entire budget for the District of Columbia (including revenues generated by local sources) is and has been appropriated by Congress through an annual appropriations bill.

The Dornan Amendment or the “D.C. Hyde Amendment” prohibits the use of government funds to pay for abortion in the Federal District (except to save the life of the mother, or in cases of rape or incest). For decades (with brief interruptions), this policy has been part of the annual appropriations bill that covers the District.

In 2009, Democrats succeeded in temporarily repealing the amendment for a period of 2 years. During that time, taxpayers were known to have paid for at least 300 abortions in Washington, D.C.

If H.R. 51 were to take effect, the predictable result will be tax funding of hundreds (if not more) of elective abortions in D.C. annually.

In general terms, the Hyde Amendment has long prohibited direct federal funding of abortion (with narrow exceptions) in the numerous federal programs, including Medicaid. However, a minority of states (15) use state dollars to fund elective abortion for Medicaid recipients. Should D.C. gain statehood, we would expect them to quickly join these states in paying for elective abortion.

Further, setting aside the implications of H.R. 51, it is unlikely that Congress can make D.C. a state without a constitutional amendment. Justice Departments under both Democratic and Republican administrations have consistently (and nearly universally) agreed that statehood for D.C. cannot be accomplished by a simple majority vote in Congress. Congress has only those powers that are enumerated in the Constitution, mainly in Article I, section 8. And Congress has

no power to create a fifty-first state from the present District of Columbia. Additionally, per Article IV, Section 3, it is likely that Maryland would need to agree separately that the land it originally ceded to create the District could now become a separate state.

Thank you for your consideration of this matter,

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