State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

(304) 558-2021
Fax (304) 558-0140

July 12, 2018

Via Certified Mail & Email

The Honorable A. Mitchell McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510
senator@mcconnell.senate.gov

The Honorable Charles Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510
senator@schumer.senate.gov

The Honorable Charles Grassley
Chairman
United States Senate Judiciary Committee
135 Hart Senate Office Building
Washington, D.C. 20510
chuck_grassley@grassley.senate.gov

The Honorable Dianne Feinstein
Ranking Member
United States Senate Judiciary Committee
331 Hart Senate Office Building
Washington, D.C. 20510
senator@feinstein.senate.gov

Re: A communication from the States of West Virginia, Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Michigan, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming regarding the nomination of Judge Brett M. Kavanaugh to the Supreme Court of the United States

Dear Senators McConnell, Schumer, Grassley, and Feinstein:

As the chief legal officers of our States, we write to urge the United States Senate to promptly hold a hearing on and confirm the nomination of Judge Brett M. Kavanaugh to the Supreme Court of the United States. Judge Kavanaugh is an outstanding jurist with a proven commitment to upholding the Constitution and the rule of law. We have no doubt that he possesses the qualifications, temperament, and judicial philosophy to be an excellent Associate Justice.

Throughout his career, Judge Kavanaugh has demonstrated an abiding commitment to the principles and freedoms on which our country was founded, and an unshakable respect for the proper role of the courts within our constitutional structure. The Senate should confirm Judge Kavanaugh without delay.

Confirmation of Judge Kavanaugh to the Supreme Court will have profound and long-lasting consequences for the people in our States. For too long we have suffered the ill effects of federal overreach as all three branches have at times exceeded the constitutional limits on their authority. Judge Kavanaugh will help reverse that trend by reviewing challenged laws and regulations with an eye to ensuring that all branches of our government act within their constitutionally assigned roles—regardless of which party is in power. A judiciary committed to the fundamental principles enshrined in the Constitution can ensure that the work being done now is safeguarded for decades to come.

As the Attorneys General of our respective States, we have a special interest in ensuring that the federal government respects the important role of the States in crafting and tailoring regulatory policy on matters of local concern. Federal judges, including the next Associate Justice of the United States Supreme Court—must respect principles of federalism and the balance of power reflected in our Constitution. We are confident Judge Kavanaugh appreciates that balance, and that he will protect the prerogatives of the States to manage their own regulatory framework.

Judge Kavanaugh is particularly well-suited to enforce the Constitution's structural limitations and safeguard the freedoms of the States and the People. In a speech two years ago commemorating the late Justice Scalia, he emphasized that the role of a judge "is to interpret the law, not to make the law or make policy." Just as judges must not "shy away from enforcing constitutional rights that are in the text of the Constitution," so too they cannot "make up new constitutional rights that are not in the text." Of great importance to the States, he also underscored that "the structure of the Constitution—the separation of powers and federalism—are not mere matters of etiquette or architecture, but are at least as essential to protecting individual liberty as the individual rights guaranteed in the text."

Judge Kavanaugh has lived up to these ideals during his tenure on the D.C. Circuit. As one of the nation's most distinguished jurists, his nearly 300 opinions highlight his principled and consistent judicial philosophy. Time and again, he has upheld the judiciary's obligation to act as a meaningful check on government interference—from championing religious freedom and other individual rights, to checking federal agencies that overstep their authority. We are convinced that, as the next Associate Justice, Judge Kavanaugh will continue this commitment to protecting individual liberties, resisting unlawful government overreach, and respecting the democratic process.

We strongly urge all Senators—and particularly the home-state Senators of the undersigned Attorneys General—to express their public support for the prompt confirmation of Judge Kavanaugh to the Supreme Court of the United States.

Sincerely,

Patrick Morrisey
West Virginia Attorney General

Steve Marshall
Alabama Attorney General

Mark Brnovich
Arizona Attorney General

Leslie Rutledge
Arkansas Attorney General

Cynthia H. Coffman
Colorado Attorney General

Pam Bondi
Florida Attorney General

Christopher M. Carr
Georgia Attorney General

Lawrence Wasden
Idaho Attorney General

Curtis T. Hill, Jr.
Indiana Attorney General

Derek Schmidt
Kansas Attorney General

Jeff Landry
Louisiana Attorney General

Bill Schuette
Michigan Attorney General

Josh Hawley
Missouri Attorney General

Tim Fox
Montana Attorney General

Doug Peterson
Nebraska Attorney General

Adam Paul Laxalt
Nevada Attorney General

Wayne Stenehjem
North Dakota Attorney General

Mike DeWine
Ohio Attorney General

Mike Hunter
Oklahoma Attorney General

Alan Wilson
South Carolina Attorney General

Marty Jackley
South Dakota Attorney General

Herbert H. Slatery, III
Tennessee Attorney General and Reporter

Ken Paxton
Texas Attorney General

Sean D. Reyes
Utah Attorney General

Brad D. Schimel
Wisconsin Attorney General

Peter Michael
Wyoming Attorney General

cc: President Donald J. Trump
Vice President Michael R. Pence