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***A unique opportunity to correct a voting rights injustice
in remaining days of the 109th Congress***

When Congress returns to Washington, DC for the remaining few days of the post-election session, there will be a unique opportunity to pass major voting rights legislation. The full House is expected to vote on the DC Voting Rights Act the week of December 4. The legislation would provide the nearly 600,000 citizens of the District of Columbia with voting representation in the House, while also giving Utah another House seat.

“This Congress has already taken a great stride forward in protecting the voting rights of Americans by renewing the Voting Rights Act,” said Common Cause President Chellie Pingree. “Now, in the final hours of the 109th Congress, there is an opportunity to add to this legacy by providing more than a half million Americans in the District of Columbia with the basic right of voting representation in Congress.”

The DC Voting Rights Act would give the District a long overdue voting member of the House of Representatives, while also giving an additional House seat to Utah, a fast-growing state that was next in line for a seat after the last census. This arrangement ensures that there is no partisan benefit as a result of this legislation.

This solution to a 200-year-old problem of voting rights for residents of the federal district follows a tradition of increasing representation in a nonpartisan manner. For instance, when Alaska and Hawaii were admitted to the Union, each was considered certain to vote in a predictable partisan manner, balancing the political power of each new state.

In Utah, efforts are underway to consider and pass a redistricting plan that would become part of the DC Voting Rights Act. Currently, the DC Voting Rights Act provides for an at-large seat for Utah. But that provision likely will be changed to incorporate the redistricting plan the Utah Legislature is expected to approve by the time Congress is ready to vote on the bill.

Why this is important

The citizens of the District of Columbia deserve the same right of representation in Congress as all other Americans. District of Columbia residents pay federal income taxes, serve on juries, and die in wars to defend American democracy. District of Columbia citizens are currently serving in the armed forces in Iraq and Afghanistan, fighting for new democratic rights for Iraqis and Afghans that they do not enjoy themselves. In 2002, then West Point Cadet James Rimensnyder wrote President George W. Bush making the point, “Today, we are the only

citizens of the United States, excluding felons, who pay federal taxes and serve in the Armed Forces, but are denied representation in Congress.”

Representative Tom Davis (R-VA), chairman of the House Government Reform Committee, has said simply: “It’s hard to make a straight-faced argument that the capital of the free world shouldn’t have a vote in Congress.”

And the recently elected House Democratic Majority Leader Steny Hoyer (D-MD) said: “The country ought to take it as a moral cause to ensure the fact that every citizen of the District of Columbia has a vote in the Congress of the United States. It is the only capital in the free world that I know of whose citizens are disenfranchised. I’m going to be working very closely with Speaker Pelosi on behalf of ensuring that enfranchisement.”

A rare bipartisan effort

In today’s polarized partisan political climate, this legislative effort has been a model of a bipartisan approach to solving a problem. Representative Davis and Eleanor Holmes Norton (D-DC), DC’s non-voting delegate, have been working together for years on matters relating to the District. They negotiated through different versions of the bill a formula that would meet the test of bipartisanship.

Earlier versions of the DC voting rights bill were introduced in 2004 and at the start of this Congress, in early 2006. Then in May of this year, a bipartisan group of 22 lawmakers, including Davis, Norton and Reps. Henry Waxman (R-CA) and Chris Shays (R-CT) introduced the current version of the bill designed to address the concerns of both parties. Since then, many others have cosponsored the legislation, including incoming House Speaker Nancy Pelosi (D-CA).

The DC Voting Rights Act is a fair and politically viable way of correcting an injustice that has existed for two centuries. While several attempts have been made to provide the District with voting representation in Congress, all have failed, and there is currently no other politically realistic approach to the problem. We believe that full representation in the House is an important and substantial step forward.

The DC Voting Rights Act recognizes that partisan political considerations have always entered into issues that are fundamentally about fairness and justice. This proposal puts those considerations aside by adding two new seats to the House, one for the District and another that will go to Utah, balancing the partisan histories of these jurisdictions. With the partisan considerations allayed, the issue becomes a simple one: Do the more than half million Americans in the District deserve to have a vote in Congress?

This is a constitutional approach

In the landmark Supreme Court decision *Wesberry v. Sanders* (1964), the court said: “No right is more precious in a free country than that of having a voice in the election of those who

make the laws under which we, as good citizens, must live.” The “good citizens” of the District of Columbia should have that “precious” right.

Legal scholars with a wide range of ideological views have stated that Congress has the authority to take this action, even though the District is not a state. Former Judge Kenneth Starr has called Congress’ authority in matters relating to the District as “majestic in scope.” He has asserted in congressional testimony that Congress has the authority to provide for voting representation in Congress, a basic right of citizens, even if the District of Columbia is not a state.

Viet Dinh, a legal scholar and former US assistant attorney general under President George W. Bush, asserted in an analysis of constitutional history that “There are no indications ... to suggest that the Framers intended that Congressional authority under the District Clause ... would not extend also to grant District residents representation in Congress.” Further, he said, there is no record that the Framers intended that their goal, establishment of a federal district, would deny residents of that district voting representation in Congress.

The American Bar Association has said in a letter to Congress: “Enactment of the proposed [bill] would be an exercise of this constitutional authority conferred by the “District Clause”.... Not only is there a moral obligation for Congress to restore such rights, there is also a constitutional obligation for Congress to ensure the right of D.C. residents to the equal protection of the law.”

There is no reason to believe that, were they here today, the Framers of the U.S. Constitution would not have supported this legislation. All they would have to do is look at the inscription on DC’s license plates: “Taxation Without Representation.”

Conclusion

Congress can correct this injustice by passing the DC Voting Rights Act. By acting now, Congress will end this session on an extraordinary high note, leaving a legacy of expanding and protecting the most basic right of in our democracy.

“This is an important moment that may not come again soon. Congress needs to pass the DC Voting Rights Act now, before the next Congress gets caught up in new business that pushes this aside,” said Pingree, the Common Cause president.