

AUTHORIZING REMOTE VOTING BY PROXY IN THE HOUSE OF REPRESENTATIVES AND PROVIDING FOR OFFICIAL REMOTE COMMITTEE PROCEEDINGS DURING A PUBLIC HEALTH EMERGENCY DUE TO A NOVEL CORONAVIRUS, AND FOR OTHER PURPOSES

MAY 14, 2020.—Referred to the House Calendar and ordered to be printed

Mr. MCGOVERN, from the Committee on Rules,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H. Res. 965]

The Committee on Rules to whom was referred the resolution (H. Res. 965) authorizing remote voting by proxy in the House of Representatives and providing for official remote committee proceedings during a public health emergency due to a novel coronavirus, and for other purposes.

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PURPOSE AND SUMMARY

This resolution authorizes remote voting by proxy in the House of Representatives, provides for official remote committee proceedings during a public health emergency due to a novel coronavirus, and directs a study and certification of remote technology to conduct remote voting in the House once such a system is operable and secure. The resolution authorizes the Speaker or her designee, in consultation with the Minority Leader or his des-

ignee, to establish a 45-day period during which a Member may authorize another Member to cast a vote on their behalf or record their presence in the House at any time that the Speaker is notified by the Sergeant-at-Arms, in consultation with the Attending Physician, of a public health emergency due to a novel coronavirus. This resolution lays out the procedures for a Member to authorize another Member to vote or record their presence on their behalf, to alter or revoke such authorization, and for voting in the House Chamber while this temporary system is in effect. The resolution further authorizes remote proceedings in committees during the 45-day covered period, for Members to participate remotely during such proceedings and to be counted for purposes of establishing a quorum, and any chair or committee empowered to issue and authorize subpoenas to do so for return at a hearing or deposition conducted remotely. The resolution provides procedures for conducting remote hearings and markups and requires committees to further conduct these proceedings in accordance with regulations submitted for printing in the Congressional Record by the chair of the Committee on Rules. The resolution directs the chair of the Committee on House Administration, in consultation with the ranking minority member, to study the feasibility of using technology to conduct remote voting in the House and to provide certification to the House upon a determination that such operable and secure technology exists. Finally, after such certification, the resolution provides that the chair of the Committee on Rules shall submit regulation in the Congressional Record and the Speaker is then authorized to notify the House that Members may cast their votes remotely during the public health emergency period covered by the resolution.

BACKGROUND AND NEED FOR LEGISLATION

COVID-19 pandemic

On December 31, 2019, a new virus detected in Wuhan, China was first reported to the World Health Organization (WHO).¹ By early March, the new virus had spread around the globe and the WHO officially declared the 2019 novel coronavirus, known as COVID-19, to be a pandemic.²

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case of the novel coronavirus in the United States³ and on February 29, 2020, the first U.S. death from the virus was reported.⁴ Since that time, in the U.S. over 1,400,000 cases have been reported and over 80,000 people have died.⁵ These numbers continue to rise. Globally, over 4 million cases and 300,000 deaths have been reported.⁶

¹*Rolling updates on coronavirus disease (COVID-19)*, World Health Organization, last visited April 20, 2020. <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.

²*Coronavirus: COVID-19 Is Now Officially A Pandemic, WHO Says*, NPR, Mar. 11, 2020, <https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says>.

³*First Travel-related Case of 2019 Novel Coronavirus Detected in United States*, Centers for Disease Control, Press Release, Jan. 21, 2020, <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html>.

⁴*CDC, Washington State Report First COVID-19 Death*, Centers for Disease Control, Media Statement, Feb. 29, 2020, <https://www.cdc.gov/media/releases/2020/s0229-COVID-19-first-death.html>.

⁵Johns Hopkins University, Coronavirus Resource Center, <https://coronavirus.jhu.edu/us-map>.

⁶Id.

In response to the pandemic outbreak in the U.S., most states and municipalities have taken action to slow the spread of the virus, including ordering the closing of nonessential businesses and issuing stay-at-home orders.⁷ At the federal level, the White House and the CDC have issued social distancing guidance and recommendations for a phased reopening of states when conditions improve.⁸ Currently, over twenty states, Washington, DC, Guam, and Puerto Rico have ongoing stay-at-home orders and about 60 percent of the population, or roughly 199 million Americans, are subject to stay-at-home restrictions.⁹

Ordering Americans to stay home and shuttering nonessential businesses, while necessary to slow the spread of the virus and prevent the outbreak from overwhelming the health care system, has resulted in an economic slowdown and an historic rise in unemployment. The current unemployment rate in the United States is estimated to be over 14 percent.¹⁰ More than 36 million Americans have applied for unemployment.¹¹ This economic crisis has fueled calls for states to begin easing restrictions to allow Americans to return to work. So far, over two dozen states have eased restrictions and allowed certain businesses to reopen.¹² However, Dr. Anthony Fauci, the Director of the National Institute of Allergy and Infectious Diseases, testified before that Senate Committee on Health, Education, Labor and Pensions, warning that if states and cities reopen prematurely there is a risk of spreading the outbreak that “will set you back, not only leading to some suffering and death that could be avoided but could even set you back on the road to try to get economic recovery.”¹³

In response to this ongoing public health emergency and economic crisis, Congress has acted swiftly to get resources where they are needed most. Already, Congress has passed four bills that have been signed into law: the Coronavirus Preparedness and Response Supplemental Appropriations Act, the Families First Coronavirus Response Act, the Coronavirus Aid, Relief and Economic Security (CARES) Act, and the Paycheck Protection and Healthcare Enhancement Act. In part, these bills provide money for hospitals, establish a new loan program to encourage small businesses to keep workers on the payroll, and provide stimulus checks directly to Americans. These bills are just the first in what will be many steps Congress takes as the nation faces one of the most serious health and economic emergencies in over a century.

⁷ *More states issue stay-at-home orders as coronavirus crisis escalates*, Axios, Apr. 6, 2020, <https://www.axios.com/states-shelter-in-place-coronavirus-66e9987a-a674-42bc-8d3f-070a1c0ee1a9.html>.

⁸ Guidelines: Opening Up America Again, <https://www.whitehouse.gov/openingamerica/>.

⁹ *A map of the US cities and states under lockdown—and those that are reopening*, Business Insider, May 8, 2020, <https://www.businessinsider.com/us-map-stay-at-home-orders-lockdowns-2020-3>.

¹⁰ Department of Labor, Labor Force Statistics from the Current Population Survey, <https://data.bls.gov/timeseries/LNS14000000>.

¹¹ Unemployment Insurance Weekly Claims, News Release, May 14, 2020, <https://www.dol.gov/ui/data.pdf/>.

¹² *Supra* note 9.

¹³ *Fauci tells Congress that states face serious consequences if they reopen too quickly*, CNN, May 12, 2020, <https://www.cnn.com/2020/05/12/politics/anthony-fauci-congress-hearing/index.html>.

Government institutions begin to work remotely

As social distancing and stay-at-home orders become the norm to slow the spread of this pandemic, government institutions in the United States, and throughout the world, have been forced to rethink how they operate, including establishing procedures to allow for remote voting to ensure they are able to pass legislation required to respond to the ongoing pandemic.

For example, over a dozen state legislatures and the District of Columbia have instituted some form of remote voting for members during the COVID-19 pandemic. Arizona, California, Connecticut, the District of Columbia, Minnesota, New Jersey, New York, Oregon, South Dakota, Utah, Vermont, and Washington legislatures have established remote voting by telephone, video conference, or other electronic means. In addition, Arkansas, Kentucky, Oklahoma, and Pennsylvania have instituted remote voting via proxy for their members.

Many other countries have also implemented remote voting in their legislatures, including Argentina, Azerbaijan, Brazil, China, Mexico, Norway, Philippines, Portugal, Romania, Spain, Taiwan, and the European Union Parliament. In addition, the legislatures of France and New Zealand have utilized remote voting by proxy during this pandemic.

Legislatures are not the only branches of government looking to adopt remote proceedings to continue operations during the pandemic. The U.S. judicial system has also had to revamp how it operates. “Federal circuit, district, and bankruptcy courts are utilizing multiple audio and video conferencing technologies to host oral arguments, initial appearances, preliminary hearings, arraignments, misdemeanor sentencings, and other procedures remotely.”¹⁴ The National Center for State Courts has recommended that state courts restrict or end jury trials, generally suspend in-person proceedings, and encourage or require teleconference and videoconferences in lieu of hearings.¹⁵ In response, most state courts have instituted such restrictions.¹⁶ Notably, for the first time in its history, the United States Supreme Court began hearing oral arguments by telephone in May.¹⁷

House of Representatives’ voting options during a pandemic

The pandemic is having a ripple effect across the United States, impacting the lives and livelihoods of people in every Congressional district. This is true for the Members representing those districts as well. The operations of the House of Representatives have been affected by social distancing, isolation, and stay-at-home orders that have captured every corner of the nation, making travel to, and physical attendance in, the House Chamber difficult. Since the start of this pandemic, numerous Members of Congress have tested

¹⁴ *Courts Deliver Justice Virtually Amid Coronavirus Outbreak*, U.S. Courts, Apr. 8, 2020, <https://www.uscourts.gov/news/2020/04/08/courts-deliver-justice-virtually-amid-coronavirus-outbreak>.

¹⁵ *Coronavirus and the courts*, National Center for State Courts, <https://www.ncsc.org/pandemic>.

¹⁶ *Id.*

¹⁷ *The Supreme Court Will Hear Arguments by Phone. The Public Can Listen In*, NY Times, Apr. 13, 2020. <https://www.nytimes.com/2020/04/13/us/politics/supreme-court-phone-arguments-virus.html>.

positive for COVID–19 or have been forced to quarantine after exposure to the virus.

With the House needing to vote on critical legislation to respond to the pandemic, while at the same time being faced with the prospect that many Members may not be able to leave isolation or travel during the pandemic, on March 23, 2020, the House Committee on Rules Majority Staff released a report entitled “Majority Staff Report Examining Voting Options During the COVID–19 Pandemic.”¹⁸ The report explored a number of voting options and outlined several factors to be considered before any remote voting plan can be adopted in response to the limitations presented by the virus. The report identified currently available voting options, including passing legislation by unanimous consent, requiring Members to return to the Capitol to take recorded votes while maintaining social distancing, employing paired voting, and utilizing a provisional quorum. The report also explored the potential to provide for new rules to allow for enhanced unanimous consent (increasing the number of Members required to object to a unanimous consent agreement), proxy voting, and remote voting.

While every option presented unique advantages and disadvantages, the report concluded that “[t]here is currently no perfect solution to allow absent Members to vote on the floor. However, proxy voting is likely the best of the options available under the circumstances.”¹⁹

In addition to the Committee on Rules Majority Staff report analyzing voting options, on April 22, the Virtual Congress Task Force was formed.²⁰ This bipartisan Task Force, comprised of the Majority and Minority Leaders, as well as the Chairs and Ranking Members of the Committee on Rules and the Committee on House Administration, examined ways Congress could better adapt to emergencies like the coronavirus pandemic. This examination, comprised of several meetings and discussions, included not just remote voting options, but also remote committee proceedings and the technology involved.

Temporary remote voting by proxy during the pandemic

Based on the findings of the March 23 report, the work of the Virtual Congress Task Force, and after consultation with Members and outside experts, Rules Committee Chairman McGovern introduced H. Res. 965, providing for a temporary voting system permitting Members of the House of Representatives to vote remotely by proxy during the COVID–19 pandemic. Pursuant to this resolution, any Member could provide specific instructions for each vote to a fellow Member who is present in the chamber and has been authorized to cast those votes on their behalf. A Member casting a vote on behalf of another Member would be required to have exact direction from the Member granting proxy on how to vote and would have to follow that direction. There would be *no* ability to grant a general proxy. Members granting proxy would have to direct each

¹⁸ Majority Staff Report Examining Voting Options During the COVID–19 Pandemic. Available at: https://rules.house.gov/sites/democrats.rules.house.gov/files/StaffReport_VotingOptions.pdf.

¹⁹ Id. at 5.

²⁰ Chairman McGovern Releases Statement on Bipartisan Task Force, Press Release, Apr. 22, 2020, <https://rules.house.gov/press-releases/chairman-mcgovern-releases-statement-bipartisan-task-force>.

and every vote, with the Member casting the proxy vote acting more as a voting machine under the direction of the Member granting proxy. In short, this resolution calls for temporary, low-tech remote voting.

Importantly, proxy voting is not a novel concept in Congress. The House permitted proxy voting in its committees for many decades and the Senate still permits it in its committees today. This resolution authorizes remote voting by proxy that provides for a minimal and ministerial type of delegation on the part of the Member granting proxy. Compared to other remote voting proposals, this more conservative option will allow Members to vote remotely by proxy in a secure way and provides Members an opportunity to vote on critical COVID-19 response legislation much more quickly.

Constitutionality of remote voting by proxy

The Constitution explicitly grants the House and Senate the authority to make their own “Rules of Proceedings.”²¹ In addition, the Supreme Court has twice, in cases from the 1890s, issued opinions that provide solid grounds to believe that the House’s establishment of remote voting rules is consistent with its constitutional authority.

In *Field v. Clark*, 143 U.S. 649 (1892), the Supreme Court ruled that challenges to the internal operation of Congress are not justiciable in the federal courts.²² In *United States v. Ballin*, 144 U.S. 1 (1892), the Court found that, while the Constitution requires the presence of a majority—or quorum—of the House to do business, the Constitution also leaves it to the House to determine its own rules.²³ The Court in *Ballin* went on to say:

[Congress] may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations, all matters of method are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.²⁴

Any constitutional analysis should also examine the rationale and context in which the House is utilizing its expansive rule-making authority to consider and implement H. Res. 965. This resolution allowing for remote voting by proxy is temporary and will operate only while there is a very significant risk to public health. Arguably, not establishing such a remote voting rule itself represents a risk to public health and safety. If Members must travel

²¹ Art. I, Sec. 5, Cl. 2.

²² 143 U.S. 649 (1892).

²³ 144 U.S. 1, 5 (1892).

²⁴ *Id.* at 5.

to vote in the House Chamber it is not just themselves who are put in danger—their families, their staffs, and all of the people they encounter—are unnecessarily endangered as well. In other words, the remote voting by proxy plan established by H. Res. 965 does not simply ensure the safety of the Members voting—it acts to safeguard all the people with whom they have contact, both during and after their travel. Such travel risks presented by unnecessary travel is precisely why virtually all state governors have implemented orders against non-essential movement and interaction among the general populace; these public safety policies make no less sense when they are applied as well to Members of Congress.

Simply put, as Erwin Chemerinsky, the renowned constitutional scholar and Dean of the University of California, Berkeley School of Law, has written, “[t]he Constitution bestows on each House of Congress broad discretion to determine the rules for its own proceedings . . . This authority is expansive and would include the ability to adopt a rule to permit proxy voting. Nothing in the Constitution specifies otherwise.”²⁵

Given this analysis, remote voting by proxy is likely to withstand constitutional scrutiny.

Study, determination, and certification of additional remote voting technology

Remote voting by proxy is a necessary and immediately feasible low-tech option allowing Members who are unable to be in the House Chamber due to this pandemic to have their vote cast by a Member who can be present. However, the immediate feasibility of remote proxy voting does not mean that it necessarily represents the final stage in remote voting. Remote proxy voting is a good first step, but it still requires that some Members must be present in the Chamber. As this pandemic evolves, such presence—even by a small number of Members—may not be feasible due to potentially worsening public health concerns. Scientists have predicted that a second wave of the virus could severely impact our nation in the coming months. Robert Redfield, Director of the Centers for Diseases Control and Prevention, said last month, “There’s a possibility that the assault of the virus on our nation next winter will actually be even more difficult than the one we just went through.”²⁶ Therefore, adopting additional remote voting procedures incorporating more advanced technology may not only be warranted, it may be required.

To ensure that the House is fully prepared to operate under such a scenario, H. Res. 965 directs the chair of the Committee on House Administration, in consultation with the ranking minority member, to study the feasibility of using technology to conduct remote voting in the House and to provide certification to the House upon a determination that such operable and secure technology exists. After the certification, the Chair of the Rules Committee is directed to issue regulations on the implementation of remote voting and the Speaker is then authorized to notify the House that Mem-

²⁵ Letter from Dean Chemerinsky to Chairman McGovern. May 13, 2020 (on file with the Committee).

²⁶ CDC director warns second wave of coronavirus is likely to be even more devastating, Wash. Post, Apr. 21, 2020, <https://www.washingtonpost.com/health/2020/04/21/coronavirus-secondwave-cdcdirector/>.

bers may cast their votes remotely during this public health emergency. By directing the study of remote voting technology, and then laying out a procedure by which such technology may be implemented, H. Res. 965 provides the House with the tools to begin voting entirely remotely should the need arise.

Failure to adequately study and prepare to execute the use of more advanced technology to vote entirely remotely during this crisis would not only hinder the House from operating should the situation deteriorate further.

Official remote committee hearings and markups

With trillions of taxpayer dollars being appropriated to combat this virus, new programs being established to aid workers and small businesses, and the Trump Administration attempting to address the pandemic, the American people deserve, and the Constitution requires, that the People's representatives conduct oversight into our nation's response. That means conducting oversight hearings.

Additionally, while Congress works to respond to this pandemic, other vitally important business impacting the United States, such as funding the government and providing for the national defense, continues to require the House's attention. That means conducting markups on these critical pieces of legislation.

While hearings and markups have typically been held in-person, just as with remote voting, there is no constitutional requirement to do so—and our nation is dealing with anything but typical circumstances. The same public health concerns that make it extremely difficult, if not impossible, for Members to travel to the Capitol to vote are likewise present as an obstacle to conducting in-person hearings and markups.

Failing to hold these committee proceedings is not an option. Just as the millions of Americans have begun utilizing technology such a videoconferencing to work remotely in response to widespread stay-at-home orders, the work of the People's House cannot be shuttered in a time of crisis. Therefore, in addition to putting in place a system of temporary remote proxy voting and authorizing the study, certification, and implementation of technology to further facilitate remote voting, this resolution also provides for the ability of House committees to operate official proceedings remotely.

Importantly, in preparation for holding these virtual official proceedings, a number of committees have already held virtual forums and briefings using videoconference technology. For example:

- The Veterans Affairs Committee held a full committee, bipartisan virtual forum on homelessness among veterans.
- The Small Business Committee held a full committee, bipartisan virtual forum on the implementation of the CARES Act.
- The Foreign Affairs Committee held a full committee, bipartisan virtual briefing on authoritarianism, disinformation, and good governance with former Secretary of State Madeleine Albright and other experts.
- The Education and Labor Committee held a full committee, bipartisan virtual forum on responding to the pandemic.

- The Homeland Security Committee has held seven virtual forums to hear from a range of experts, including former FEMA Administrator Craig Fugate and former Homeland Security Secretary Jeh Johnson.
- The Natural Resources Committee has livestreamed four forums on the coronavirus pandemic, including the impact on longstanding environmental and economic inequalities in our country and the federal response to coronavirus in the U.S. territories.

Building on the lessons learned from these informal proceedings, H. Res. 965 authorizes committees to begin holding remote official proceedings, including hearings, markups, and depositions. Allowing for these important official proceedings to be conducted remotely ensures that the Legislative Branch can continue to operate fully on behalf of the American people during this public health crisis.

Conclusion

The United States is facing the worst pandemic since the Spanish Influenza of 1918. With over a million reported cases, tens of thousands of lives lost, and tens of millions of Americans unemployed and struggling to make ends meet, the House of Representatives must continue operating to address the needs of the nation during this crisis. This means that, within the authority granted to it by the Constitution, the House must establish procedures to enable the People's representatives to pass critical relief legislation and to conduct oversight of our nation's response to this virus. The temporary remote voting by proxy plan, procedures for remote official committee proceedings, and study of the feasibility of technology to facilitate further remote voting by Members laid out in this resolution achieves these goals.

COMMITTEE CONSIDERATION

The Committee on Rules met on May 14, 2020, in open session and ordered H. Res. 965 favorably reported to the House by a record vote of 8 yeas and 4 nays, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. A motion by Mr. McGovern to report the resolution to the House with a favorable recommendation was agreed to by a record vote of 8 yeas and 4 nays, a quorum being present. The names of Members voting for and against follow:

Rules Committee record vote No. 303

Date: May 14, 2020

Motion to order H. Res. 965 reported favorably to the House.
Agreed to: 8–4

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Nay
Mrs. Torres	Yea	Mr. Woodall	Nay
Mr. Perlmutter	Yea	Mr. Burgess	Nay

Majority Members	Vote	Minority Members	Vote
Mr. Raskin	Yea	Mrs. Lesko	Nay
Ms. Scanlon	Yea		
Mr. Morelle	Yea		
Ms. Shalala	Yea		
Ms. Matsui	Yea		
Mr. McGovern, Chairman	Yea		

The committee also considered the following amendments on which record votes were requested. The names of Members voting for and against follow:

Rules Committee record vote No. 271

Date: May 14, 2020

Amendment (no. 1) offered by Mr. Woodall to ensure the resolution doesn't go into effect until the Clerk of the House certifies that a system is in place for the secure receipt and validation of the designation of proxies by Members under this resolution. Defeated: 4–6

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui			
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 272

Date: May 14, 2020

Amendment (no. 2) offered by Mr. Cole to require the concurrence of the Minority Leader to designate a covered period. Defeated: 4–7

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon			
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 273

Date: May 14, 2020.

Amendment (no. 3) offered by Mr. Cole to sunset the covered period on June 30, 2020. The amendment also requires a two-thirds vote to extend the covered period beyond June 30, 2020. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea

Majority Members	Vote	Minority Members	Vote
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 274

Date: May 14, 2020

Amendment (no. 4) offered by Mr. Woodall to strike the provisions allowing Members to record the presence of other Members who designated them as their proxy. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 275

Date: May 14, 2020

Amendment (no. 5) offered by Mr. Woodall to require a report by the General Counsel on defedning proxy voting against claims of unconstitutionality. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 276

Date: May 14, 2020

Amendment (no. 6) offered by Mr. Burgess to require the Committee on House Administration to submit a report analyzing the accuracy and integrity of the votes cast by Members in the House, including the votes cast by designated proxies under this resolution, and shall include in the report a description of any errors in the votes cast by designated proxies under this resolution. The Committee on House Administration shall submit this report not later than 30 days after the end of the year. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea

Majority Members	Vote	Minority Members	Vote
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 277

Date: May 14, 2020

Amendment (no. 7) offered by Mr. Cole to limit measures for which votes may be cast or presence recorded by proxy to measures designated by the Speaker or her designee, in consultation with the Minority Leader or his designee, as a response to the COVID-19 pandemic; any vote related to a question of the privileges of the House under rule IX; any vote on a question unrelated to a specific measure or matter; or a quorum call. Defeated: 3-8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 278

Date: May 14, 2020

Amendment (no. 8) offered by Mr. Woodall to prohibit a Member from casting the vote or recording the presence of another Member as a designated proxy with respect to any bill or resolution considered under the suspension of the rules, unless the bill or resolution is designated by the Speaker or her designee, in consultation with the Minority Leader or his designee, as a response to the COVID-19 pandemic. Defeated: 3-8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	.....	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 279

Date: May 14, 2020

Amendment (no. 9) offered by Mr. Cole to prohibit a Member from casting a vote or recording the presence of another Member as a designated proxy under this resolution with respect to any bill or resolution which has not been reported by a committee of the House. Defeated: 3-8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee Record Vote No. 280

Date: May 14, 2020

Amendment (no. 10) offered by Mrs. Lesko to prohibit a Member from casting the vote or recording the presence of another Member as a designated proxy under this resolution with respect to any bill or resolution relating to impeachment, censure, or contempt. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 281

Date: May 14, 2020

Amendment (no. 11) offered by Mrs. Lesko to require the Committee on House Administration to reduce the amount available under the Members’ Representational Allowance by the amount which would have been paid from the Allowance for the Member’s travel expenses if the Member casts a vote or records the presence of another Member by proxy or attends a proceeding remotely at any time during that fiscal year. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 282

Date: May 14, 2020

Amendment (no. 13) offered by Mr. Cole to require the regulations under Section 6 in the resolution to include a requirement that, not later than 24 hours prior to the vote or quorum call involved, the Speaker notify Members that votes may be cast or presence may be recorded by designated proxies. The amendment also

requires that these regulations include the establishment of minimum periods of time for the casting of votes and the recording of presence by designated proxies, and a requirement for the use of contingency plans which may be implemented in the event of failure of any technology to carry out sections 1, 2, or 3. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 283

Date: May 14, 2020

Amendment (no. 14) offered by Mrs. Lesko to limit the number of proxies any Member can hold to two. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 284

Date: May 14, 2020

Amendment (no. 15) offered by Mrs. Lesko to strike section 4 of this resolution, authorizing remote proceedings in committees. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 285

Date: May 14, 2020

Amendment (no. 16) offered by Mrs. Lesko to exclude the Committee on Ethics and the Permanent Select Committee on Intelligence from the provisions authorizing remote proceedings in committees. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 286

Date: May 14, 2020

Amendment (no. 17) offered by Mr. Cole to prohibit committee members from recording their presence remotely. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 287

Date: May 14, 2020

Amendment (no. 18) offered by Mr. Cole to strike “to the greatest extent practicable” in the provision requiring committees to ensure the ability of members to participate remotely to the greatest extent practicable. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 288

Date: May 14, 2020

Amendment (no. 19) offered by Mrs. Lesko to ensure the guidance referenced in section 4(h) outlines how the committee intends to address specific time zones of members; how the committee intends to address technological limitations that may exist that preclude members from full participation in remote sessions; rules on decorum including attire and how the chair would handle witnesses and members who go over their time limit, and the muting of member microphones; and how the chair plans to control platform access, including providing the ranking member a list of those with participatory access to the platform 24-hours in advance of the scheduled committee meeting. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 289

Date: May 14, 2020

Amendment (no. 20) offered by Mrs. Lesko to prohibit a committee from conducting a markup remotely. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 290

Date: May 14, 2020

Amendment (no. 21) offered by Mrs. Lesko to prohibit a committee from taking depositions remotely. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 291

Date: May 14, 2020

Amendment (no. 22) offered by Mr. Cole to create a point of order against consideration of legislation reported by a committee under any remote proceeding if the committee in marking up or reporting the legislation violated any rule of the House, the committee, or any provision of this resolution. It shall not be in order to consider a rule or order that waives the application of this point of order. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess .....	.....
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		

Majority Members	Vote	Minority Members	Vote
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 292

Date: May 14, 2020

Amendment (no. 23) offered by Mr. Cole to require in the regulations referenced in section 4(h) that the chair of a committee wishing to conduct remote proceedings publish guidance in the Congressional Record on how the chair intends to authenticate and validate member participation. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee Record Vote No. 293

Date: May 14, 2020

Amendment (no. 24) offered by Mr. Woodall to require that under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that members of the committee have the right to offer a motion to adjourn and have the right to offer a motion to postpone consideration. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee Record Vote No. 294

Date: May 14, 2020

Amendment (no. 25) offered by Mr. Woodall to require that under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that members of the committee have the right to demand words be taken down. Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter		Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		

Majority Members	Vote	Minority Members	Vote
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 295

Date: May 14, 2020

Amendment (no. 26) offered by Mr. Woodall to require that under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that there is 7-day notice before any hearing and 24-hour availability of such text of any matter to be considered by the committee. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 296

Date: May 14, 2020

Amendment (no. 27) offered by Mr. Woodall to require that, under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that members of the committee shall have the right to offer motions to appeal the ruling of the chair. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 297

Date: May 14, 2020

Amendment (no. 28) offered by Mr. Woodall to require that under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that members of the committee have the right to offer second degree amendments, but may not require the pre-filing of amendments. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings		Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		

Majority Members	Vote	Minority Members	Vote
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee Record Vote No. 298

Date: May 14, 2020

Amendment (no. 30) offered by Mrs. Lesko to require the chair to notify the Members of the committee of the circumstances which required a recess to be declared within 24 hours of recessing committee proceedings. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee Record Vote No. 299

Date: May 14, 2020

Amendment (no. 31) offered by Mr. Woodall to require that under the regulations referenced in section 4(h), the chair of a committee conducting proceedings remotely shall ensure that Members have access to dedicated technical support from the Chief Administrative Officer during the proceedings. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 300

Date: May 14, 2020

Amendment (no. 32) offered by Mr. Cole to require committees to include in any report filed with the House with respect to any proceeding conducted remotely a description of any issues arising from conducting the proceeding remotely. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		

Majority Members	Vote	Minority Members	Vote
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 301

Date: May 14, 2020

Amendment (no. 33) offered by Mrs. Lesko to prohibit any committees from conducting remote proceedings until the Committee on House Administration has submitted to the House a plan under which committees will be able to make greater use of other facilities in the United States Capitol Complex to conduct hearings and markups in person. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

Rules Committee record vote No. 302

Date: May 14, 2020

Amendment (no. 34) offered by Mr. Woodall to amend section 5 to only require the chair of the Committee on House Administration, in consultation with the ranking minority member, to study the feasibility of using technology to conduct remote voting in the House. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Ms. Matsui	Nay		
Mr. McGovern, Chairman	Nay		

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee made oversight findings and recommendations that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

This resolution authorizes remote voting by proxy in the House of Representatives, provides for official remote committee proceedings during a public health emergency due to a novel coronavirus, and directs a study and certification of remote tech-

nology to conduct remote voting in the House once such a system is operable and secure. In doing so, this resolution ensures that the House can function to its full constitutional and legislative ability while taking the necessary precautions to protect against the public health threat posed by a novel coronavirus. The resolution also emphasizes that the authority for Members to remote vote by proxy and for committees to conduct remote proceedings is temporary and limited to addressing the current public health crisis. The resolution authorizes the Speaker or her designee, in consultation with the Minority Leader or his designee, to establish a 45-day period during which a Member may authorize another Member to cast a vote on their behalf or record their presence in the House at any time that the Speaker is notified by the Sergeant-at-Arms, in consultation with the Attending Physician, of a pandemic emergency due to a novel coronavirus. But also, the resolution provides that if during that 45-day period, the Speaker or her designee receive further notification by the Sergeant-at-Arms, in consultation with the Attending Physician, that the public health emergency due to a novel coronavirus is no longer in effect, then the ability of a Member to vote or record their presence remotely by proxy is terminated as well as the authorization for remote committee proceedings.

To ensure that Members' votes are cast accurately, the resolution lays out the procedures for a Member to authorize another Member to vote or record their presence on their behalf, to alter or revoke such authorization, and on voting in the House Chamber while this temporary voting system is in effect. Importantly, prior to casting a vote, a Member designated as a proxy must obtain exact instruction from the Member wishing to vote remotely by proxy. A Member whose vote is cast or whose presence is recorded by a designated proxy shall be counted for the purpose of establishing a quorum. The resolution also clarifies that if a Member has designated another Member as their proxy, but the Member granting proxy then casts their own vote in person, that Member shall be considered to have revoked their proxy designation.

The resolution further authorizes remote proceedings in committees during the 45-day covered period, for Members to participate remotely during such proceedings and to be counted for purposes of establishing a quorum, and any chair or committee empowered to issue and authorize subpoenas to do so for return at a hearing or deposition conducted remotely. The resolution authorizes committees to hold official hearings, markups, and depositions remotely. Like the authorization allowing for remote proxy voting during the covered period, if during that 45-day period, the Speaker or her designee receive further notification by the Sergeant-at-Arms, in consultation with the Attending Physician, that the public health emergency due to a novel coronavirus is no longer in effect, then the ability of committees to hold remote official proceedings is also terminated. This temporary authorization during a pandemic will allow committees to consider important legislation as well as conduct their constitutional oversight duties.

Finally, the resolution directs the chair of the Committee on House Administration, in consultation with the ranking minority member, to study the feasibility of using technology to conduct remote voting in the House and to provide certification to the House

upon a determination that such operable and secure technology exists; after such certification the chair of the Committee on Rules shall submit regulations in the Congressional Record and the Speaker is then authorized to notify the House that Members may cast their votes remotely during the public health emergency period covered by the resolution. This study, determination, certification, and implementation of remote voting technology ensures that were the pandemic situation to further deteriorate, making even a limited presence of Members in the House Chamber extremely difficult, the House will still be able to vote on critical legislation.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

SECTION-BY-SECTION ANALYSIS

Section 1: Authorization and time period for remote voting by proxy

Authorization—Authorizes the Speaker, in consultation with the Minority Leader, to designate a 45-day period during which Members may vote or record their presence remotely by proxy in the House (not the Committee of the Whole), after the Speaker receives notification from the Sergeant-at-Arms, in consultation with the Attending Physician, that a pandemic emergency due to a novel coronavirus is in effect.

Extension—Allows the Speaker, in consultation with the Minority Leader, to extend the authority for an additional 45 days if the Sergeant-at-Arms, in consultation with the Attending Physician, notifies the Speaker that the public health emergency due to a novel coronavirus remains in effect.

Early termination—Terminates the 45-day period early if the Speaker is further notified by the Sergeant-at-Arms, in consultation with the Attending Physician, that the pandemic emergency due to a novel coronavirus is no longer in effect.

Section 2: Designating proxies

Signed letter—Requires a signed letter submitted to the Clerk from any Member who wishes to vote by proxy naming the Member who is authorized to serve as their proxy. The letter may be submitted in electronic form, including email. This letter will be used by the Clerk to certify that a Member serving as proxy has the authority to cast votes on behalf of the Member voting remotely by proxy. It is the responsibility of the Members involved to ensure that separately provided voting instruction, detailed below, is followed.

Altering or revoking proxy—Allows Members to submit further signed letters to the Clerk to alter or revoke their proxy, and automatically revokes the proxy designation if a Member votes in-person. These further letters may also be submitted in electronic form, including email.

Notification—Requires the Clerk to notify the Speaker, Majority Leader, Minority Leader, and the Member designated (and in the case of an alteration, the Member formerly designated) as proxy of any designation, alteration, or revocation of proxy.

Proxy designation limitation—Limits the number of proxy designations a Member may hold to 10 at a time.

List of proxy designations—Requires the Clerk to maintain and keep updated a list of all proxy designations, alterations, and revocations and to make that list publicly available electronically, including available during any vote.

Section 3: Voting process

Yeas and nays—Provides that if a Member requests the yeas and nays, a recorded vote, or makes a point of no quorum under clause 6 of rule XX, the yeas and nays will be considered as ordered (rather than the chair first determining there is sufficient support), preventing the need for large numbers of Members to gather in the chamber to ensure a sufficient number to support their request.

Indicating proxy status—Requires Members who cast votes on behalf of another Member to indicate that the vote is “by proxy” on a ballot card.

Quorum—Provides that a Member whose votes are cast by proxy are counted for the purpose of establishing a quorum in the House.

Proxy vote instructions—Requires that a Member voting on behalf of another Member obtain *an exact instruction* with respect to the specific vote or quorum call, to cast that vote pursuant to that instruction, and is required to seek recognition from the Chair to announce the exact instruction they received. If a Member casting a proxy vote does not receive instructions from the Member granting the proxy then that Member may not cast the vote.

Section 4: Remote committee proceedings

Authorization—Provides that during the 45-day period designated by the Speaker under section 1, notwithstanding any rule of the House or its committees, committees may conduct proceedings (hearings, markups, or any other official business) remotely pursuant to the provisions of section 4 and the regulations authorized by section 4, and those proceedings will be considered as official proceedings. This authorization does not prevent committees from being able to use official resources to hold unofficial remote forums and roundtables.

Remote participation—Allows committee Members to participate remotely during in-person committee proceedings and state that the committee must, to the greatest extent practicable, ensure that Members can participate remotely. This authorization does not mean that a committee is prohibited from holding a remote proceeding unless all Members are able to participate remotely or that a committee is required to procure technology for members to participate remotely. Instead, it requires committees to provide Members who wish to participate remotely the opportunity to do so, but anticipates that in rare circumstances technological issues may prevent committees from ensuring remote participation.

Voting—Provides that committee Members may vote or record their presence remotely.

Quorum—Provides that committee Members participating remotely shall be counted for the purposes of establishing a quorum.

Witnesses—Allows witnesses to appear remotely.

Designating “place”—Allows the committee chair to designate the “place” of a committee proceeding, satisfying the requirement of clauses 2(g)(3) and 2(m)(1) of rule XI, as being conducted remotely.

Committee reports—Allows that reports of committees (including those filed as privileged) may be delivered to the Clerk in electronic form and written and signed supplemental, additional, and dissenting views may also be filed in electronic form with the clerk of the committee.

Limitations on business meetings—Requires that before a committee holds a business meeting remotely or permits remote participation in a business meeting for the first time, a majority member of a committee must first submit a letter signed by a majority of the members of the committee for printing in the Congressional Record notifying the Speaker that the committee has complied with regulations for remote committee proceedings submitted for printing in the Congressional Record by the Rules Committee chair referenced in subsection (h) and that the committee is prepared to conduct a remote business meeting and permit remote participation during that meeting. Importantly, ensuring members can participate remotely pursuant to section 4(a)(2) does not mean that committees must allow remote participation in a markup if they have not completed the requirements found in the regulations referenced in subsection (h).

Remote proceedings—Provides that remote participants shall not be considered absent; that during remote committee proceedings the chair may declare a recess to address any technical difficulties; and that the requirement that the result of any recorded vote be made available by the committee in its offices (clause 2(e)(1)(B)(i) of rule XI) shall not apply.

Submitted or written documents—Allows for copies of motions, amendments, measures, or other documents submitted to the committee electronically pursuant to the regulations referred to in subsection (h) to satisfy any submission requirement for such documents under the rules of the House or its committees.

Amendment consideration—Provides that during a remote business meeting the committee may manage the consideration of amendments pursuant to regulations referred to in subsection (h).

Witness counsel—Permits the attendance of counsel for any witness appearing remotely before a committee in accordance with regulations referred to in subsection (h).

Witness oaths—Allows an oath to be administered to a witness remotely.

Transparency for meetings and hearings—Provides that any remote committee meeting or hearing conducted in accordance with regulations referred to in subsection (h) shall be considered open to the public.

Subpoenas—Provides that any committee or chair empowered to authorize and issue subpoenas may authorize and issue subpoenas for return at a hearing or deposition conducted remotely. During this period, authorized and issued subpoenas may be signed electronically and the Clerk may attest and affix the seal of the House to such subpoenas electronically.

Executive session—Prohibits a committee from conducting a closed or executive session proceeding remotely. If during a remote proceeding a motion by a Member to go into closed or executive ses-

sion is adopted, then the chair shall recess the meeting with respect to such matter until the proceeding can be reconvened in person. This prohibition on remote closed proceedings does not apply to the Committee on Ethics.

Regulations—Subsection (h) provides that this section shall be carried out in accordance with regulations submitted for printing in the Congressional Record by the Rules Committee chair. Consistent with past grants of regulatory authority to the chair of the Committee on Rules, this authority is not limited to a single submission of regulations.

Application—“Committee” includes select committees and subcommittees.

Section 5: Study on remote participation

Study and certification of remote voting technology—Requires the chair of the Committee on House Administration, in consultation with the ranking minority member, to study the feasibility of using technology to conduct remote voting in the House and to provide certification to the House upon a determination that such operable and secure technology exists.

Implementation of remote voting technology—Following certification by the chair of the Committee on House Administration, the chair of the Committee on Rules, in consultation with the ranking minority member, will submit regulations for printing in the Congressional Record that provide for implementation of remote voting in the House. After submission of these regulations, the Speaker is authorized to notify the House that Members may cast their votes or record their presence remotely.

Section 6: Regulations

Remote voting regulations—Provides that sections 1, 2, and 3 (remote voting by proxy) shall be carried out in accordance with regulations submitted for printing in the Congressional Record by the Rules Committee chair, to the greatest extent practicable. Consistent with past grants of regulatory authority to the chair of the Committee on Rules, this authority is not limited to a single submission of regulations.

CHANGES IN EXISTING HOUSE RULES MADE BY THE RESOLUTION, AS REPORTED

In compliance with clause 3(g) of rule XIII of the Rules of the House of Representatives, the Committee finds that this resolution does not propose to repeal or amend a standing rule of the House.

DISSENTING VIEWS

The American people expect its elected Representatives to lead by example and continue to govern during these times, especially when we ask health care workers, grocery store clerks, and other front-line workers to keep going to work every single day. At the same time, we also recognize that changes to the way the House normally operates during a pandemic are appropriate. But a pandemic does not mean we should throw out 230 years of House practice and the Constitution. In fact, our founders faced many of the same questions we face today when they drafted the Constitution. Travel was long and dangerous, especially during a time of war. Proxy voting is something they easily could have implemented, and its omission leads us to conclude that they chose to draft the Constitution without providing for proxy voting. They knew the value of a Congress—a coming together of people and ideas—and therefore demanded physical presence to further us as an institution.

Before even addressing the Majority's proposal, it is critical to understand the process that led to this potentially flawed and deficient product. When Democrats were entrusted with the Majority in 2019, they promised things would be different. They instituted rules changes that would ensure regular order, such as ensuring committee hearings and markups before legislation would be considered by the Rules Committee and the House.

While these provisions made for good sound bites, the Majority has waived the rule requiring a markup on 5 bills and has foregone hearings on 7 House resolutions so far this Congress. And it is deeply disappointing that on such a fundamentally important piece of legislation, which changes how this House has operated for more than 230 years, the Majority has yet again failed to hold proper hearings and take testimony from witnesses. To be fair, this Committee did hold one unofficial, virtual roundtable discussion, limited to one hour, where Members were asked to limit themselves to one question a piece from two panelists. Such a consequential change certainly merits more than one hour of discussion and deserves hearings in all committees that would be impacted, especially the Committee on House Administration and the Committee on the Judiciary. While we appreciate the Committee holding this hearing and markup, they are certainly not designed to find common ground and develop a bipartisan proposal. As Chairman McGovern once stated “. . . usually when you have a lousy process, you have a lousy bill.” The process for consideration of this resolution has certainly been lousy and it is apparent in the product, which is riddled with both serious constitutional concerns and practical implementation issues.

We must make one point abundantly clear: this measure fails to pass constitutional muster in every regard. While the Constitutional limitations on the power of Congress may be inconvenient to

some with a desired policy outcome in mind, it is, nevertheless; the fundamental question that every Member of Congress must ask before casting a vote on this or any measure. The Majority has failed to provide sufficient Constitutional basis for this substantial change to the core functions of Congress, and as such, jeopardizes the legitimacy of the passage of any future legislation. There are constitutional options before the House, and should the Majority alter their partisan and short-sighted crusade, we would gladly explore these options with them in a bipartisan and expeditious manner.

Article I of the U.S. Constitution demands physical presence for Congress to perform core legislating functions. Physical presence is required for Congress to establish a “quorum” to conduct business (Art. 1, Sec. 5, Cl. 1); and in regards to “meeting” (Art. I, Sec. 4, Cl. 2), “assembling” (Art. I, Sec. 4, Cl. 2), and “attendance” (Art. I, Sec. 5, Cl. 1). The Constitution grants each Member the right to request for “the yeas and nays” and requires a recorded vote on any question “at the desire of one fifth present” (Art. 1, Sec. 5, Cl. 3). While the Majority may have novel arguments regarding the redefinition of presence, such an argument is inconsistent with the text of the Constitution and commonsense. In 1892 the Supreme Court ruled in *U.S. v. Ballin* that the House of Representatives lacks the authority to set rules that ignore constitutional restraints, the relevant restraint in the matter before us being that of physical presence.

The Constitution provides that “a majority of each [house] shall constitute a quorum to do business.” In other words, when a majority are present the house is in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action, of any single member or fraction of the majority present. All that the Constitution requires is the presence of a majority, and when that majority are present the power of the house arises” (emphasis added).

As we referenced above, the Constitution requires Congress to assemble at least once a year and, as required, Congress has consistently physically gathered in a single location to conduct business. We can turn to *The Federalist Papers* for more color on this requirement. In Federalist No. 14, James Madison argued that “the natural limit of a republic is that distance from the centre which will barely allow the representatives to meet as often as may be necessary for the administration of public affairs.”

In Federalist No. 53, Madison, in arguing in favor of two-year terms for Members of the House, noted that “[t]he distance which many of the representatives will be obliged to travel, and the arrangements rendered necessary by that circumstance, might be much more serious objections with fit men to this service, if limited to a single year, than if extended to two years.”

The Constitution and the words of the founders leave no room to contemplate a scenario other than Members of Congress assembling and meeting in person in one location. There is simply no room in the constitutional confines of our government for Members

of the House of Representatives to meet in multiple or virtual locations.

For those who find these arguments unpersuasive or the call to preserve the integrity of the Constitution too theoretical to demand our fidelity, we urge them to carefully consider this warning: if any Member casts their vote on passage of a measure without being physical present in the chamber, it would raise the specter of illegitimacy of the final action taken by the House. A Member who disagrees with a potential change to the House rules could attempt to challenge the change in the courts, or a member of the public who is adversely affected by any law while the House is operating remotely could similarly allege that the law was not instituted through constitutional means. Both scenarios would damage the House as an institution and depending on the legislation in question, have far-reaching economic consequences.

The confines of the Constitution are not so rigid as to prevent Members of this body from finding a path forward that would allow for safe and effective governing. We urge the Majority to embrace Constitutional certainty and abandon this flawed proposal.

In addition to the serious Constitutional challenges contemplated by this resolution, it has the potential to fundamentally alter how the House operates. While the resolution only addresses proxy voting in the context of the current pandemic, relaxation of what it means to be incapacitated as an institution is a legitimate concern. So, while this proposal may be confined to the current crisis, it opens the door to allowing proxy voting in other circumstances—like fly-in days—because of the inconvenience of travel or weather-related incidents.

Proxy voting fundamentally undermines the role of Congress. Congress is derived from Latin words meaning “a coming together of people” and “to meet with; to fight with.” Proxy voting removes that personal element of Congress. Instead of a free-flowing debate and exchange of ideas, proxy voting further serves to entrench one’s own view and eliminates the interaction with different ideas.

Some have argued that the polarization of our Congress is due in no small part to Members spending less time working out differences in face-to-face settings and failing to develop personal relationships with those across the aisle. If that is the case, the turn to proxy voting will only further exacerbate the polarization of Congress to the detriment of the American people.

Beyond the Constitutional and institutional implications, there are practical concerns with the Majority’s proposal. These could have been further explored through a series of hearings; however, the Majority seems determined on pushing this proposal through as expeditiously as possible.

Rather than providing Members certainty and clarification, the Majority’s resolution instead generates a series of questions about how their proxy voting scheme will operate: questions that must be answered before a monumental proposal like this should be implemented. The Electronic Voting System (EVS) underwent three years of testing before it was fully implemented; yet, the Majority seems to think proxy voting can be implemented with the flip of a switch. In discussions with the Office of the Clerk, we remain

concerned about the ability and of the Clerk's office to authenticate and certify the grantor of the proxy in real time.

Additionally, there are a series of questions generated by introduction of a proxy like addressing the situation of a Member who is unable to find a willing proxy. This may occur for a multitude of reasons, including a Member taking a different position than their potential proxy. Beyond this, since House Rules only prescribe a minimum time for voting, it is unclear how the Majority's proposal would ensure that all Members have an opportunity to inform their proxy on how they wish to vote before the Chair closes a vote, especially on an unanticipated vote.

Instead of moving forward with this resolution, the Majority would do well to use any of the many existing tools at the House's disposal. We note at least three potential alternatives that would allow the House to proceed with business, while not trampling the Constitution or the institution.

First, the House could use the approach it did during the 1918 Spanish Flu, where the House continued to operate by unanimous consent. The Majority should truly consider what legislation will be considered under their proxy voting scheme. We hope it will continue to be legislation that is broadly bipartisan, which has both Senate and White House support. In that scenario, it makes sense that unanimous consent is the appropriate approach to take. If, however, the Majority is intending to undertake partisan legislation that has no chance of becoming law, their current approach, which seeks to leverage their slim majority, makes sense.

Second, the House could continue to operate as it did for the vote on the CARES Act. This would maintain appropriate safeguards recommended by both the Office of the Attending Physician and the House Sergeant-at-Arms to ensure the safety of all Members and staff. Additional precautions could be implemented, if desired, to further protect the safety of all Members and staff.

Third, the House could avail itself of Rule XX, clause 5, which provides for the establishment of a provisional quorum in the event of a catastrophic event. The rule specifically contemplates use of this procedure in the event of "catastrophic circumstances involving natural disaster, attack, *contagion*, or similar calamity rendering Representatives incapable of attending the proceedings of the House" (*emphasis added*). This rule change was implemented after the 9/11 attacks on a bipartisan basis four years after consideration, not one month. Any of these tools should be used before creating more extraordinary, constitutionally untested processes.

The second major provision included in this resolution is more notable for what is absent from it than from what it contains. While this resolution purports to provide committees with the authority to operate remotely, it provides no specific details on how committees are to accomplish this objective. It is critical that many of the real technological challenges are addressed prior to implementation of any remote operations by committees.

Serious implementation challenges exist to ensuring that committees are able to function remotely, first and foremost being the issue of cybersecurity. The House is subject to more than 1.6 million cyberattacks per month and currently, there are no House authorized products which would allow committees to meet securely.

Many of the existing platforms that committees have used thus far have significant vulnerability issues that could be exploited, should the Majority continue down this path.

Additionally, this resolution makes no effort to ensure the protection of the rights of the Minority or hold the chairs of committees accountable for adhering to the rules of the House and guaranteeing equal participation by all committee members. Under this resolution, Members of Congress wishing to exercise their constitutional responsibilities can only do so to the extent allowed by the chair. It remains troubling that there are no details as to how remote committee operations will function under this resolution. How a chair will dispense of motions, how a chair will ensure any member retains the right to offer amendments at any time, how the ruling of the chair may be appealed—these are just a few of the questions that have gone unanswered by the Majority. We are concerned that this resolution not only consolidates for the chair the legislative power belonging to all members of the committee, but provides no recourse or mechanism whereby committee chairmen are held accountable to their fellow members and the American people for actions that disserve democracy and violate the rules of the House. It should be noted that we have raised on numerous occasions specific instances where this Majority's chairmen have failed to follow their own committee rules and the rules of the House. Although it comes as no surprise since this Majority seems to be more interested in expediting its partisan liberal agenda than preserving the integrity of the legislative process and any semblance of bipartisanship.

Beyond these concerns, there are practical challenges that must be addressed. In a remote committee markup, how will amendments be distributed? Given that some committees have time zone differentials of 22 hours, how will committee activities be scheduled? How will a committee ensure all Members can attend and participate when broadband internet access, especially in rural and remote areas, can be limited? These questions deserve more than a cursory glance in a Rules Committee hearing and markup.

As if the first four sections of this resolution didn't go far enough to upend the integrity and transparency of the proceedings of this body, Section 5 places the future of remote voting in the House of Representatives in the hands of one individual: the chair of the Committee on House Administration. The gravity of this language cannot be overstated. Remote voting fundamentally alters what it means to be the People's House and to make such a lasting and catastrophe change through a report issued by one person should cause every American pause. Transparency, vote integrity, and equal participation cannot exist if the House moves from a physical location to the virtual ether. We shudder to think of the implications of this move on an already hyper-partisan environment. Bipartisanship—the overcoming of barriers—relies on the organic forming of relationships through physical human connection and conversation and a change of this magnitude demands more thought than a casually written page and a half of legislative text.

There was potential for there to be bipartisan agreement on how to address current and future pandemics. And as we've expressed previously, we would like nothing more than to find a way to work

with our colleagues in the Majority to address some of these real issues. Sadly, the Majority's dedication to circumventing the standing rules that have existed from the first Congress leaves little room for deliberation and discussion. Making fundamental changes to how the House operates should be done in a thoughtful manner—not simply as a reaction to an emergent need and an opportunity to consolidate power and diminish the rights of the minority party.

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