March 23, 2020

The Honorable James P. McGovern  
Chairman 
Committee on Rules 
H-312, The Capitol 
Washington, DC 20515

Dear Chairman McGovern:

We write to request that you enact a temporary change to House Rules to allow remote voting by Members of the House during national emergencies, especially the current one involving COVID-19.

By their very nature, national emergencies threaten the health and safety of the American people and require quick action by Congress. COVID-19 is upsetting the expectations and experiences of people across the country. Untold numbers are being stricken with illness or dying, millions are losing jobs, and some economists are predicting a recession we have not experienced since World War II. Helping families who may be suffering from drastically negative health and financial consequences is of paramount importance.

With COVID-19, and likely during any national emergency, that assistance must be provided with as much speed as Congress can muster. Unfortunately, during such circumstances, requiring Members to vote in person may pose public health risks or even be physically impossible for persons under quarantine. We need to provide a mechanism through which Congress can act during times of crisis without having to assemble in one place.

That is why we support temporarily changing the Rules of the House to allow for remote voting. It would enable the House to act quickly to address the suffering of American families and ensure that no matter how this crisis develops, the voices of our constituents will be represented in Congress.

Furthermore, using technology in this way is consistent with what millions of American businesses are doing across this country, right now, to deal with COVID-19. Millions of workers at businesses, schools, nonprofits, and local governments are using technology to continue to be productive. Congress should be no exception to adapting to this crisis. The House must adopt remote voting both to protect public health and to allow us to be the voices of our constituents.

While few have raised constitutional concerns about remote voting, we are confident it is permitted. As Erwin Chemerinsky, Dean of the University of California at Berkeley School of Law, explains, "Article I, Section 5 says: ‘Each House may determine the Rules of its Proceedings.’ I believe this is authority for a house of Congress to use remote voting, especially
given our emergency situation.”¹ Well-known Harvard Law Professor Lawrence Tribe echoes that view, writing: “The Constitution needn’t and shouldn’t be construed to preclude virtual presence any more than it had to be constituted to treat air travel or indeed email as something other than interstate commerce or electronic surveillance as less than a fourth amendment search and seizure.”² The opinions of these renowned legal scholars, as well as our own careful study of the Constitution, reassure us that remote voting is consistent with the framework of our democracy.

This view is consistent with how the Supreme Court viewed a similar matter, in the case of United States v. Ballin (1892). In approving a change to the way the House measured a quorum, the Court reasoned that the Constitution “has prescribed no method” for determining one is present, “and it is therefore within the competency of the house to prescribe any method which shall be reasonably certain to ascertain the fact.”³

We ask that you consider giving the House the technical means to, first and foremost, help others. If we cannot, American families will suffer. In national emergencies like the rapid spread of COVID-19, time is of the essence, and we should be willing to adapt our congressional procedures to meet the needs of this singularly pressing moment in time.

Sincerely,

Eric Swalwell
Member of Congress

Katie Porter
Member of Congress

Bonnie Watson Coleman
Member of Congress

Max Rose
Member of Congress

Rashida Tlaib
Member of Congress

Suzanne Bonamici
Member of Congress

Lori Trahan
Member of Congress

Kendra S. Horn
Member of Congress

³ United States v. Ballin, 144 U.S. 1 (1892).
Greg Stanton  
Member of Congress

Juan Vargas  
Member of Congress

Andy Kim  
Member of Congress

Jose E. Serrano  
Member of Congress

Pramila Jayapal  
Member of Congress

Vicente Gonzalez  
Member of Congress

Joyce Beatty  
Member of Congress

Dean Phillips  
Member of Congress

Jesús G. “Chuy” García  
Member of Congress

Dwight Evans  
Member of Congress

Mike Doyle  
Member of Congress

Scott Peters  
Member of Congress

Cynthia Axne  
Member of Congress

Debbie Mucarsel-Powell  
Member of Congress

Grace F. Napolitano  
Member of Congress

Tulsi Gabbard  
Member of Congress

Joe Courtney  
Member of Congress

Darren Soto  
Member of Congress
Tim Ryan
Member of Congress

Kathleen M. Rice
Member of Congress

Abby Finkenauer
Member of Congress

Haley Stevens
Member of Congress

Suzan DelBene
Member of Congress

Susan Wild
Member of Congress

Alexandria Ocasio-Cortez
Member of Congress

Frederica S. Wilson
Member of Congress

/s

Eleanor Holmes Norton
Member of Congress

Chellie Pingree
Member of Congress

/s

Donald M. Payne, Jr.
Member of Congress

Angie Craig
Member of Congress

/s

Kim Schrier
Member of Congress

Tony Cardenas
Member of Congress

/s
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