Remote Voting in Congress

April 23, 2020

By: Omar Franco, Carissa Faña

In this unprecedented time of COVID-19, Congress is considering remote voting in order to continue its legislative functions and provide a response to the pandemic crisis in a democratic way. Although many Congressional members are split on this idea, given that some think they should be present in their chambers to cast their votes even in times of crisis, others call for the House to change its rules to allow proxy voting for a member who is physically present in the chamber to cast a vote for lawmakers who are absent only for a limited period of time. Still, modifying the House rules to permit some form of remote voting would be massive, and it would require broad approval from both parties to implement.

The idea of remote voting also faces significant logistical and legal challenges, according to a report released in mid-March by the House Committee rules, “implementing remote voting would raise serious security, logistical, and constitutional challenges. Security and reliability are hallmarks of the current system and any divergence from current practices must retain the same level of integrity.” Last month, House leaders passed a bipartisan coronavirus relief package by “unanimous consent,” which resulted in a single lawmaker, Rep. Thomas Massie (R-Ky.), objecting to it and derailing the vote. Both party leaders were forced to call as many of their members back to Washington to override Massie’s objection. Evidently, voting by unanimous consent has its limitations considering it would only take one of the current members to object to passing the bill unanimously to derail the vote. Most likely Rep. Massie will continue to object unanimous consent and rejects any idea of remote voting.

Congressional leaders have already discussed ways to explore remote voting options as this crisis prolongs. A Senate proposal presented last month sponsored by Sens. Rob Portman (R-Ohio) and Richard J. Durbin (D-Ill.), calls for the establishment of a verifiable technology and procedure so members can vote in a time of national emergency. The proposed measure would give the Senate majority and minority leaders joint authority to authorize secure remote voting during any national crisis that makes in-person voting not possible.
Remote voting would then be allowed for up to 30 days. The Senate would have to vote to renew remote voting every 30 days.

Others think that Congress could also take the more traditional route of allowing members to phone-in votes via a secure line, perhaps presenting themselves to the clerk on video for transparency. Another view could be to bring just enough members back to establish a quorum — ensuring that enough of the lawmakers would vote in favor of the package for it to pass. If members do not agree on either side, lawmakers could change the number of members needed for a quorum. Either way, any form of remote voting will require rules to be changed and these changes most likely will require an in-person vote.

Senate Majority leader Mitch McConnell has opposed the idea of remote voting, however, House Speaker Pelosi has expressed support to the idea of proxy voting as an alternative to continue legislative business.

Unfortunately, this crisis is also forcing state legislatures to take action and shift onto remote sessions to continue legislative actions. State legislatures must make changes to their procedures in order to fully implement upcoming changes and programs overseen by states in the coronavirus relief packages. The Virginia House of Delegates will be instituting remote voting for the first time in 401 years. Several news outlets have reported that legislators in Pennsylvania and Utah announced a move to remote sessions of the state legislature. In “Pennsylvania lawmakers intend to work from home while passing new laws to give Gov. Tom Wolf authority to grant a public health emergency, expand telemedicine, and lift the state requirement on 180-day instructional days for students.” Utah legislature called for a historical special session to go entirely remote via video conferencing to conduct legislative work.

While the debate continues, Congress would have to reach an agreement on how the rules should change and what system should be put into place to enact legislation as usual. However, this week House Democrats scrapped a plan to vote on a temporary change to House rules to allow proxy voting on legislation during the coronavirus pandemic.

We will keep you updated on this issue as this would be a historic change to the way that Congress conducts its business.