



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

September 28, 2022

Omar Ashmawy
Chief Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, S.W., Suite 1110
Washington, DC 20024
Email: oce@mail.house.gov

RE: Rep. Cindy Axne (Iowa)

Dear Mr. Ashmawy,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request the Office of Congressional Ethics (OCE) immediately investigate Representative Cindy Axne for stating to the House Clerk that she could not vote in person due to the ongoing COVID pandemic, when the actual reason for her proxy votes was so that she could vacation in France.

On August 12, 2022, Rep. Axne filed a letter with the House Clerk that stated,

“I am unable to physically attend proceedings in the House Chamber due to the ongoing public health emergency and hereby grant the authority to cast my vote by proxy to the Honorable Jennifer Wexton, who has agreed to serve as my proxy.”¹

On the day Axne filed her proxy letter, Wexton voted on the Inflation Reduction Act on her behalf.²

Contrary to her statement to the House Clerk, an Instagram post made by her son showed Axne and her family in Paris the day before the vote, and when her campaign was asked about

¹ Cynthia Axne, Proxy Letter to the Clerk of the U.S. House of Representatives, filed Aug. 12, 2022, available at <https://clerk.house.gov/legislative/proxy-letters/117/2/20220812/Axne-IA03-20220812-09.pdf>.

² Proxy Votes for Roll Call No. 420, Aug. 12, 2022, available at <https://clerk.house.gov/legislative/proxy-letters/117/2/votes/2022/roll420.pdf>.

the true reason for her vote by proxy the post was removed.³ When questioned again by a reporter about her use of the proxy vote and her written statement to the House Clerk, Axne then explained that the true reason she voted by proxy was so she could vacation in France.⁴ She stated:

“The deal is I’m a family member, I’m a mom of two boys and my husband. We have an August session where we were out of session here and I had a trip planned for eight months, and paid for, because that was the only time that I could go, because we were out of session. Now the Senate finally got their act together and was able to pass something a year after we passed it in the House, and then an emergency vote was called and I was gone. I wanted to make sure that I voted so Iowans could have a voice because we need the Inflation Reduction Act for Iowans, and we needed to make sure we had that vote, and I will always make sure that I will vote for Iowans.”⁵

According to Rep. Axne’s own statement, she did not use the proxy vote for its authorized purpose and made a false statement to the House Clerk.

Law. On May 15, 2020, the ability to vote by proxy was authorized at any time after the Speaker of the House was notified by the Sergeant-at-Arms that a “public health emergency due to a novel coronavirus is in effect.”⁶ Thus, the purpose for the use of a proxy vote must be due to the “public health emergency” and the procedure for proxy voting was **not authorized for any other purpose**.⁷ In order to vote by proxy a Member must declare in writing to the House Clerk that their reason for using the proxy vote is because they are unable to be physically present for a vote due to the pandemic. **If that is not the reason for the proxy vote then the Member is making a false statement to the House Clerk.**

³ Kyle Morris, *Vulnerable Iowa Democrat vacationed in Europe as she voted by proxy for Inflation Reduction Act, IRS expansion*, Sep. 21, 2022, available at <https://www.foxnews.com/politics/vulnerable-iowa-democrat-vacationed-europe-voted-proxy-inflation-reduction-act-irs-expansion>.

⁴ NBC13 Des Moines, Sep. 25, 2022, available at <https://who13.com/news/insiders-axne-was-in-france-during-vote-hinson-opposes-gop-governors-flying-migrants/>; Jacob Bliss, Twitter, Sept. 26, 2022, available at <https://twitter.com/JacobMBliss/status/1574416355373236228?s=20&t=-vTq8dVNCjp-00qAOhqDAQ>.

⁵ *Id.*

⁶ House Resolution 965, *Authorizing Remote Voting by Proxy in the House of Reps. & Providing for Official Remote Comm. Proceedings During a Public Health Emergency Due to a Novel Coronavirus, & for Other Purposes*, 116th Congress 2019-2020 (May 15, 2020), available at <https://www.congress.gov/bill/116th-congress/house-resolution/965/text>.

⁷ *Id.*

The House ethics rules require Members to “conduct themselves at all times in a manner that reflects creditably on the House.”⁸ This is a broad and “comprehensive provision” that is applied to any conduct taken in a Member’s official capacity.⁹ For example, Members have been investigated and disciplined under this rule related to “making statements that impugned the reputation of the House” and “making false statements to the [Ethics] Committee.”¹⁰ Thus, Members cannot make false statements to the House Clerk because it does not reflect creditably on the House.

Members are further required to adhere both to the spirit and the letter of the House ethics rules, and thus they must read all the rules and ethical requirements broadly.¹¹ This includes the House rules adopted “to ensure Congress can continue legislation during COVID-19,” under which Members are permitted to vote by proxy when needed because “a public health emergency due to a novel coronavirus is in effect.”¹²

Willful Abuse of the Proxy Vote Rules & False Statements to the House Clerk. Rep. Axne made an official statement to the House Clerk that she was “unable to physically attend” House proceedings due to the COVID-19 pandemic. However, she later explained the real reason was not related to the pandemic at all, but was because she had planned to go on vacation in France. If a Member is not present to vote due to a vacation, whether it was planned or not, the only options are for the Member to change vacation plans or not vote—it is not an option to submit a false statement to the House Clerk.

The rules are quite clear—the proxy vote may only be used for reasons related to the pandemic and not for any other purposes, including vacations. This is evidenced by the fact that in order to vote by proxy a Member must file a statement with the House Clerk declaring the reason for the proxy vote is related to the pandemic, and if that is not the case the Member is making a false statement to the House Clerk. Doing so is both a willful violation of the House

⁸ House Ethics Manual, Comm. on Standards of Official Conduct, U.S. House of Reps., at 1, 12, 186 (2008 ed.), available at https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf (citing House Rule 23, clause 1).

⁹ *Id.* at 13.

¹⁰ *Id.* at 14 (citing House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. 95-1743, 114th Cong. Rec. 8785, at 3-4 (Counts 3-4) (Apr. 3, 1968); *Id.* at 16 (citing House Comm. on Standards of Official Conduct, Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, H. Rep. 108-722, 108th Cong., 2d Sess. (Oct. 4, 2004)).

¹¹ *Id.* at 17.

¹² Comm. on Rules, *Congressional Emergency Remote Proceedings*, available at <https://rules.house.gov/press-releases/key-documents-congressional-emergency-remote-proceedings> (“On May 15, 2020, the House adopted House Resolution 965 to ensure Congress can continue legislating during COVID-19. The resolution provided for the temporary implementation of remote voting on the House Floor and virtual committee proceedings during a ‘covered period’ designated by the Speaker after receiving a notification from the Sergeant-at-Arms, in consultation with the Attending Physician, that a public health emergency due to a novel coronavirus is in effect.”).

proxy voting rules and a violation of the basic ethics rules requiring Members to act in a manner that reflects creditably on the House.

The ethics rules function to maintain the integrity of government action. The Office of Congressional Ethics is responsible for ensuring each Representative fulfills the public trust inherent in the office and that they comply with the House's ethical standards. Therefore, we urge the Board to immediately investigate whether Representative Axne willfully abused the House proxy voting rules and made a false statement to the House Clerk.

To the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation. Further, I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,

/s/Kendra Arnold

Kendra Arnold
Executive Director, Foundation for Accountability & Civic Trust