

Congress of the United States
Washington, DC 20510

December 15, 2020

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader – House of Representatives
Washington, D.C. 20515

The Honorable Zoe Lofgren
Chairperson
Committee on Administration
House of Representatives
Washington, D.C. 20515

The Honorable Rodney Davis
Ranking Member
Committee on Administration
House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi, Minority Leader McCarthy, Chairperson Lofgren, and Ranking Member Davis:

We write to express our deep concern with the effort of Rita Hart to contest her loss to Representative-elect Dr. Mariannette Miller-Meeks in Iowa's Second Congressional District. As you know, Dr. Miller-Meeks was recently certified as the winner of this contest. Ms. Hart has stated publicly she intends to invoke the Federal Contested Elections Act (FCEA), 2 U.S.C. § 381, et seq., to change the result of this election. By doing this, Ms. Hart chose to circumvent Iowa's established process and fair and impartial court system. Instead, she is choosing to circumvent Iowa election laws providing for a nonpartisan judicial process to seek a partisan-based judgment to overturn an outcome certified by a bipartisan state canvassing board. Her strategy displaces a nonpartisan process for a partisan one. That would create a dangerous precedent and should be rejected.

Iowa law provides a robust recount and contest procedure for federal candidates. There is an eight-day period following the election in which counties finalize and certify their election results. These results are then transmitted to the Iowa Secretary of State. This year, the finalized results were tallied statewide on November 10, 2020. Hart, as the losing candidate, exercised her right to request a recount of the election results but waited until the last possible day to do so, causing the process to start later than it could have.

Iowa law grants candidates substantial involvement in the recount procedures. The losing candidate designates a member of a recount board for each county in the district. The Miller-Meeks campaign then designated a representative. The two representatives then conferred to appoint a third member. In most cases the board members were able to agree on the third member. In a few counties, when the two campaigns could not agree, the chief judge of the judicial district appointed the third member when the two campaigns could not agree.

The recount boards had discretion to conduct a hand or machine recount of each precinct in the county. In 14 of the 24 counties in the district, the Hart campaign agreed to a full machine

recount of that county's results, even though there was ample time to conduct a hand recount. The other counties proceeded with partial, or in the case of two counties, full hand recounts. Under Iowa law, a machine recount is conducted in the same manner as the Election Day tabulation of votes. A hand count, in contrast, allows the recount board members to examine each ballot to determine the intent of the voter.

The results of the recount of votes in the Second Congressional District were included in the finalized statewide tally that was unanimously certified by the bipartisan Iowa Executive Council on November 30, 2020, comprised of statewide elected officials from both parties. The final tally again showed that Dr. Miller-Meeks won the election.

Iowa law permitted Ms. Hart to contest this result if she had concerns about Iowa's election laws and procedures not being followed. The contest court is composed of the Chief Justice of the Iowa Supreme Court and four district court judges selected by the Iowa Supreme Court. This court would have immediately met to conduct a trial, if Ms. Hart had so requested. We are confident that Iowa's neutral and distinguished judiciary would have provided Ms. Hart with a speedy and just determination of any claim she would have raised.

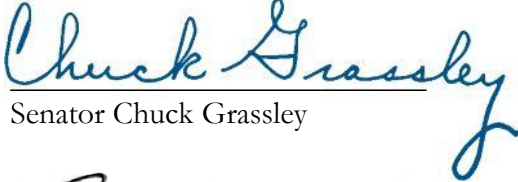
Ms. Hart then announced on December 2, 2020, that she would bypass this process and instead contest her loss before the House of Representatives under the FCEA. She stated there was insufficient time for the Iowa contest court to resolve her claims about her loss and she alluded to her desire to conduct a full hand recount of all ballots. Ms. Hart did not and has not explained why it would be appropriate to conduct a hand recount overseen by the House of Representatives at this stage after her campaign passed up the opportunity afforded to it under Iowa election law, instead agreeing to a machine recount in a majority of the district's counties.

Ms. Hart is also wrong about the inability of the Iowa contest court to have heard her claims. And, in any event, it was incumbent upon Ms. Hart to have tried the procedure provided to her by Iowa law first. If the contest court had ignored her claims, or permitted an arbitrary deadline to prevent her from having a full hearing, she might have a better claim to invoke the FCEA. We reject the notion that a losing candidate for federal office can simply decide what parts of state election law she thinks are inconvenient and simply ask the House of Representatives to change the election results on its own.

Ms. Hart is asking the House of Representatives to create a dangerous precedent. We agree the House and Senate alike retain the ultimate power under the U.S. Constitution to determine the election and qualifications of its members. But the existence of this power does not imply the wisdom of using it without first requiring losing candidates to avail themselves of remedies under their own state's election laws. Iowans rightly have confidence in the integrity of our state's election officials and process. Any action to bypass or overturn a fair election conducted according to Iowa law would not be well received by the citizens of our state and would result in a cloud over the results of such efforts. The House of Representatives and the Senate have wisely in the past required losing candidates to exhaust their remedies under state law before contesting an election. The House of Representatives and the House Administration Committee should follow these precedents and dismiss any contest filed by Ms. Hart.

Iowa's election system is fair and thorough. It should not be replaced by an inherently partisan political process.


Sincerely,




Senator Chuck Grassley



Senator Joni Ernst



Congressman-Elect Randall Feenstra



Congresswoman-Elect Ashley Hinson