

April 20, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Steny Hoyer
House Majority Leader
United States House of Representatives
1705 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kevin McCarthy
Republican Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steve Scalise
Republican Whip
United States House of Representatives
2049 Rayburn House Office Building
Washington, D.C. 20515

Re: The House Must Get Back To Work

Dear Speaker Pelosi, Republican Leader McCarthy, Majority Leader Hoyer, and Republican Whip Scalise:

We urge the House of Representatives to include a provision in the next COVID-19 emergency bill to allow the House to operate remotely during the Coronavirus pandemic and to fund technology modernization in support of these operations. If the House returns as planned on May 4th, fifty-three days will have elapsed since its last committee proceeding and fifty-one days since its last roll call vote on the House floor. It is possible that the return date will slip again¹ as the COVID-19 pandemic renders it unsafe or unwise for the House to assemble in person.

This is a topic of great concern and urgency. Given the nature of this pandemic, requiring Members to deliberate, legislate, and vote in person poses grave health risks for Members of Congress and their families, Congressional support staff, the Capitol Police and custodial staff, and everyone they come in contact with as they return to the Capitol. It could be months or years before it is safe for the House to return to normal operations.

We understand the reluctance of some Members of the House to amend or temporarily suspend particular rules, but we believe it is preferable to have a remote Congress than no Congress. In the absence of the House of Representatives, the Executive branch has issued signing statements that undercut the recently enacted Coronavirus Aid, Relief, and Economic Security Act (CARES Act); has removed Inspectors General without cause; and President Trump recently said "I have the ultimate authority... the authority is total and that's the way it's got to

¹ "Floor Schedule Update," Majority Leader Steny Hoyer (April 13, 2020), available at <https://www.majorityleader.gov/content/floor-schedule-update-566>.

be.”² It is the Legislative Branch in which the Constitution vests “all legislative powers,” and Congress must be in a position to contest the president’s assertion and serve as a check on the Executive branch.

House Committee on Rules Democrats issued March 23 report on voting options during the COVID-19 pandemic,³ but it focused narrowly on CARES Act deliberations. Expert analysis concluded the report did not fully address remote deliberations via teleconference for the House floor nor the implementation of remote deliberations for committees during the pandemic.⁴

The House should be using its resources to determine how to get back in business. This includes:

- Charging the Committee on Rules with drafting appropriate amendments to the House rules to allow, on a temporary basis, for remote committee and floor deliberations.⁵
- Charging the Committee on House Administration with continuing to oversee technology modernization.
- Charging the Committee on Appropriations with making significant new funding for the legislative branch to support its operations⁶ as well as restoring much of its cut oversight capacity.⁷
- Charging the House Office of General Counsel with laying out the legal basis for remote deliberations on the floor and in committees.

Undoubtedly, the House faces significant, but surmountable, challenges when looking to implement remote deliberations. While it may have been best for the House to address these

² “Trump says his ‘authority is total.’ Constitutional experts have ‘no idea’ where he got that.” Washington Post (April 14, 2020), available at

<https://www.washingtonpost.com/nation/2020/04/14/trump-power-constitution-coronavirus/>.

³ “Majority Staff Report Examining Voting Options During the COVID-19 Panedemic,” House Rules Committee (March 23, 2020), available at

https://rules.house.gov/sites/democrats.rules.house.gov/files/StaffReport_VotingOptions.pdf.

⁴ “Summary and Analysis:House Rules Committee Democrats Report on Remote Voting,” Demand Progress (March 24, 2020), available at

https://s3.amazonaws.com/demandprogress/reports/Summary_and_Analysis_House_Rules_Committee_Democrats_Report_on_Remote_Voting.pdf.

⁵ For principles the Committee on Rules should follow, see “Memo: Continuity of Legislatures,” Demand Progress (March 17, 2020), available at

https://s3.amazonaws.com/demandprogress/reports/Memo_for_Legislatures_on_their_Continuity_in_Emergencies_2020-03-17.pdf.

⁶ The CARES Act made new funds available to the legislative branch, but it was inadequate to the need. Of the \$2 Trillion, only \$93.1 Million was appropriated for the entirety of the Legislative branch. See “What Leg. Branch Receives in the Third Supplemental,” Demand Progress (April 2, 2020), available at <https://firstbranchforecast.com/2020/04/02/what-leg-branch-receives-in-the-third-supplemental/>.

⁷ See, e.g., “The Undermining of Congress,” Demand Progress (February 2, 2020), available at https://s3.amazonaws.com/demandprogress/reports/2020-02_The_Undermining_of_Congress.pdf.

issues when they came up in the 2003 Commission on the Continuity of Congress report,⁸ or when they were re-raised in an October 2019 letter,⁹ or in a series of letters from civil society and members of Congress starting on March 12,¹⁰ there is no time like the present. Fortunately, there is strong public support, with 80 percent of Americans favoring remote deliberations.¹¹

The House must adapt if it is going to properly manage must-pass legislative business like the FY2021 Appropriations bills, the National Defense Authorization Act, additional COVID-19 emergency legislation, as well as traditional authorizing legislation. The use of Unanimous Consent as the sole means to enact legislation is unsustainable and risks undermining the House's legitimacy. In addition, the House must be able to conduct oversight, which can only truly be done when Members are able to have the full capacity of the legislative branch available, including holding hearings, markups, and formal meetings. We know of the longstanding desire of some to stand up a Select Committee on the Coronavirus to oversee implementation of the CARES Act, but that, too, mostly likely can happen only when the House is able to deliberate.¹²

We all hope for a quick end to the COVID-19 pandemic and the rapid return of the House of Representatives to its normal proceedings. But hope is not enough. The House must get back to work, which, in the current circumstances, means remote deliberations.

We would welcome the opportunity to discuss this further. Please contact Daniel Schuman, policy director at Demand Progress, at Daniel@demandprogress.org.

⁸ "Preserving Our Institutions: The First Report of the Continuity of Government Commission" (May 1, 2003), available at

<https://www.brookings.edu/research/preserving-our-institutions-the-first-report-of-the-continuity-of-government-commission/>.

⁹ "Recommendation to the House Select Committee on the Modernization of Congress to bolster remote & district office technology for First Branch Continuity of Government," Beeck Center, PopVox, and Demand Progress (October 2019), available at

https://s3.amazonaws.com/demandprogress/testimony/Recs_to_SCOMC_on_Continuity_of_Government_2019-10-19.

¹⁰ Civil Society Letter on Addressing the Coronavirus Threat (March 12, 2020), available at

https://s3.amazonaws.com/demandprogress/letters/Recs_to_Congress_on_Coronavirus_2020-03-12.pdf;

New Democrat Coalition Letter (April 7, 2020), available at

[https://newdemocratcoalition.house.gov/imo/media/doc/02APR20_NDC%20CV4%20Priorities%20Letter%20\(vF\).pdf](https://newdemocratcoalition.house.gov/imo/media/doc/02APR20_NDC%20CV4%20Priorities%20Letter%20(vF).pdf);

Problem Solvers Caucus Letter (April 7, 2020), available at

https://problemsolverscaucus-gottheimer.house.gov/sites/problemsolverscaucus.house.gov/files/wysiwyg_uploaded/PSC%20active%20participation%20letter%20to%20leadership%204-7-20.pdf.

¹¹ "New PSB poll: Should Congress be able to telework?" (March 30, 2020), available at

<https://www.psbresearch.com/wp-content/uploads/2020/03/New%20PSB%20poll%20on%20COVID19%20Congress%20and%20Remote%20Voting%20FOR%20IMMEDIATE%20RELEASE.pdf>.

¹² "Pelosi wants coronavirus select committee but that requires a vote," Lindsey McPherson and Chris Marquette, Roll Call (April 2, 2020), available at

<https://www.rollcall.com/2020/04/02/pelosi-wants-coronavirus-select-committee-but-that-requires-a-vote/>.

Sincerely,

Action Corps
Citizens for Responsibility and Ethics in Washington (CREW)
CODEPINK
Constitutional Alliance
Courage Campaign
Defending Rights & Dissent
Demand Progress
Faithful America
Government Accountability Project
Government Information Watch
GovTrack.us
NALEO Educational Fund
National Hispanic Media Coalition
New America's Open Technology Institute
Open The Government
Project On Government Oversight
Protect Democracy
Public Citizen
R Street Institute
Revolving Door Project
Senior Executives Association
Take on Wall Street
TechFreedom
Woodhull Freedom Foundation

Brian Baird
Katie Batchelder
Zach Graves
Samuel Hammond
Marci Harris
Lorelei Kelly
Dani Moore
Norman Ornstein
Daniel Schuman

cc: Members of the House of Representatives