

February 2, 2021

The Honorable Chuck Schumer
Majority Leader of the U.S. Senate
S-230, The Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Republican Leader of the U.S. Senate
S-221, The Capitol
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader of the U.S. House of Representatives
H-204, The Capitol
Washington, D.C. 20515

Dear Leader Schumer, Speaker Pelosi, Leader McConnell, and Leader McCarthy:

On behalf of the undersigned organizations, members of the Power of the Purse Coalition, we write requesting your support for advancing a number of initiatives in the 117th Congress to strengthen the legislative branch's constitutional authority over the federal government's purse strings.

Lawmakers in both parties have reacted with alarm and chagrin in recent years when Presidents from both parties have overstepped the bounds of their executive power. Our organizations represent many different positions on the ideological spectrum, but we formed this coalition based on a firm belief that the erosion of congressional capacity and authority to the aggrandizement of the executive branch is a nonpartisan problem requiring bipartisan solutions.

To that end, we respectfully request that you prioritize the following initiatives in the new Congress:

- **Require additional transparency from the Office of Management and Budget (OMB) on apportionment decisions:** There is bipartisan interest¹ on Capitol Hill in requiring OMB to more quickly and efficiently report to Congress when it has issued an apportionment decision. A bipartisan amendment added to the Bipartisan Congressional Budget Reform Act² during the Senate Budget Committee's markup of the legislation would require OMB to report every apportionment of congressionally appropriated funds on a public website. It would also require OMB to report to Congress every time an agency requests appropriated funds that haven't been approved by OMB in a timely fashion. Similar provisions are included in House Democrats' Congressional Power of the Purse Act.³ Though there may be limited scenarios where the executive branch has a legitimate interest in temporarily withholding or otherwise disrupting congressionally appropriated funds, Congress should know immediately when this happens and for what reasons so it can fulfill its oversight duties and ensure good stewardship of public dollars.
- **Enact National Emergencies Act (NEA) reform:** Another initiative with bipartisan support is giving Congress more power over national emergencies declared by Presidents.⁴ The Assuring that Robust, Thorough, and Informed Congressional Leadership is Exercised Over National Emergencies (ARTICLE ONE) Act, from Sen. Mike Lee (R-UT) and Rep. Chip Roy (R-TX), would introduce balance to the one-sided national emergency process by giving Congress a role in both affirming and extending national emergencies.⁵ The ARTICLE ONE Act enjoyed robust bipartisan support when it was successfully reported out of the Senate Homeland Security and Governmental Affairs Committee on a strong 11-2 vote in the summer of 2019.⁶ Similar provisions are included in the Congressional Power of the Purse Act.⁷ This legislation is a critical check on the executive branch's ability to unilaterally redirect congressionally appropriated funds for problems that the President deems an "emergency," which has become the subject of fierce national debate in recent years.

¹ U.S. Senator Chris Van Hollen. (Nov. 7, 2019). "Van Hollen Amendment to Reinstate Congressional 'Power of the Purse' Passes Budget Committee in Bipartisan Vote." Retrieved from: <https://www.vanhollen.senate.gov/news/press-releases/van-hollen-amendment-to-reinstate-congressional-power-of-the-purse-passes-budget-committee-in-bipartisan-vote> (Accessed Jan. 28, 2021.)

² Congress.gov. (Introduced Oct. 31, 2019). "S.2765 - Bipartisan Congressional Budget Reform Act." Retrieved from: <https://www.congress.gov/bills/116th-congress/senate-bill/2765/text> (Accessed Nov. 19, 2020.)

³ House Committee on the Budget. (April 29, 2020). "Section-by-Section Analysis: Congressional Power of the Purse Act." Retrieved from: <https://budget.house.gov/publications/report/section-section-analysis-congressional-power-purse-act> (Accessed Nov. 19, 2020.)

⁴ U.S. Senator Mike Lee. (Oct. 18, 2019). "Bipartisan Letter Urges Leadership to Have Full Senate Consider ARTICLE ONE Act." Retrieved from: <https://www.lee.senate.gov/public/index.cfm/2019/10/bipartisan-letter-urges-leadership-to-have-full-senate-consider-article-one-act> (Accessed Jan. 28, 2021.)

⁵ Protect Democracy. (July 1, 2020). "Coalition letter in support of ARTICLE ONE Act on FY 2021 NDAA." Retrieved from: <https://protectdemocracy.org/update/coalition-letter-in-support-of-article-one-act-on-fy-2021-ndaa/> (Accessed Nov. 19, 2020.)

⁶ Business Meeting of the U.S. S. Comm. on Homeland Security and Governmental Affairs, 116th Cong. (July 24, 2019). Retrieved from: <https://www.hsgac.senate.gov/imo/media/doc/Committee%20Record-2019-07-241.pdf> (Accessed Nov. 19, 2020.)

⁷ House Committee on the Budget. (April 29, 2020). "Section-by-Section Analysis: Congressional Power of the Purse Act." Retrieved from: <https://budget.house.gov/publications/report/section-section-analysis-congressional-power-purse-act> (Accessed Nov. 19, 2020.)

- **Reassert Congressional primacy in appropriations matters:** The Antideficiency Act (ADA) protects Congress's power of the purse by prohibiting actions that would obligate funds in advance or excess of a Congressional appropriation. The Impoundment Control Act (ICA) also protects Congressional prerogatives by strictly proscribing actions the Executive must take before withholding the obligation of Congressionally appropriated funds. In the case of the ADA, there are penalties for executive branch employees who violate the rules. With the ICA, Congress must receive a notice of proposed rescission and can deny the request. There have been recent attempts by the executive branch to violate both these provisions of law, yet little Congressional pushback against them. Congress must reassert its primacy in appropriations matters by presenting a united front against any future violations of the ADA and ICA.
- **Enhance oversight tools that will help Congress manage the nation's money responsibly:** Inspectors General (IGs) and the Government Accountability Office (GAO) are essential to ensuring that the American people's resources are not being squandered or mismanaged. When there is waste, fraud, and abuse, it is almost always discovered through investigations and audits performed by IGs or GAO. It is critical that Congress enact reforms to strengthen these tools and assure cooperation with relevant investigations and inquiries. The Congressional Power of the Purse Act contains enhancements to GAO while other bills from the 116th Congress, such as the Protecting Our Democracy Act,⁸ would further augment and protect IGs. We encourage you to consider these and similar reforms in the 117th Congress.
- **Increase access to agency spending requests to promote oversight and accountability:** In the course of the annual appropriations process, offices submit spending proposals known as Congressional Justifications (CJs). These plain-language explanations of agencies' plans to spend federal funds are written at a high level of detail and in language a layperson can understand. Providing these documents in a central, online repository managed by OMB, as proposed in the Congressional Budget Justification Transparency Act of 2019,⁹ would facilitate oversight, improve agency efficiency, root out duplicative programming, and allow for analysis of changes over time.

As we note above, several of these recommendations and more are included in the Congressional Power of the Purse Act. We believe that many of the provisions in this legislation merit consideration from Democrats and Republicans in Congress, *regardless* of who sits in the Oval Office.

We appreciate the opportunity to share our coalition's recommendations with you. Should you have any questions or would like to discuss these reforms further, we are at your service.

Sincerely,



Demand Progress



Freedomworks



Lincoln
Network



National Taxpayers
Union



Project on
Government
Oversight



Protect Democracy



R Street
Institute



Taxpayers for Common
Sense (TCS)

CC: Members of the 117th Congress

⁸ Congress.gov. (Introduced Sept. 23, 2020). "H.R. 8363 – Protecting Our Democracy Act." Retrieved from: <https://www.congress.gov/bill/116th-congress/house-bill/8363?s=1&r=3> (Accessed Nov. 19, 2020.)

⁹ Congress.gov. (Introduced Oct. 29, 2010). "H.R. 4894 – Congressional Budget Justification Transparency Act of 2020." Retrieved from: <https://www.congress.gov/bill/116th-congress/house-bill/4894> (Accessed Dec. 14, 2020.)