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## **Administrative Issues Related to a Change in Majority in the House of Representatives**

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# Administrative Issues Related to a Change in Majority in the House of Representatives

## Summary

Majority control in the House of Representatives has changed only six times over the past 75 years, and only once in the past half-century, following the midterm elections of 1994. Earlier changes in 1931, 1947, 1949, 1953, and 1955 offer little in the way of precedent relevant to the contemporary situation. Moreover, given the rapid pace of institutional, procedural and technological change over the past decade, even the transfer of power in 1995 provides only limited reference to present circumstances. There does not appear to be a definitive roadmap to all of the issues that could arise in the current majority transition, or those that might follow. Generally, the transition to a new majority may raise a number of issues and challenges affecting House rules, certain activities in Member offices, committees, and administrative and legislative operations. Some of those administrative issues may be addressed by the current majority and the incoming majority that assumes control of House operations at the beginning of the 110<sup>th</sup> Congress.

During the period between the November elections and when the new Congress convenes in early January, a new incoming majority lacks official institutional authority to implement any changes beyond procedures governing the activities of its conference or caucus. Matters relating to chamber rules, House officers, staff, office space, administrative practices of the outgoing majority, or matters pending floor consideration remain under the direction of the outgoing majority. Although there can be some discussion between leaders of the outgoing and incoming majorities, the outgoing majority is not bound to change current practices or to accommodate the preferences of the incoming majority until the current Congress adjourns, and the new Congress convenes.

Although a new incoming majority may lack formal authority to undertake the administration of the House prior to the formal convening of the chamber, it appears that many of the decisions related to a transition need to be made prior to the formal assumption of majority status. This report provides discussion and analysis of some of the immediate areas that a new incoming majority would likely need to consider as it prepares to assume responsibility for the administration of the House. These issues include (1) amendment and adoption of House Rules; (2) election of House officers; (3) administration of committee organization and funding; (4) establishment of House-wide staffing levels; and (5) publication of the Members' Representational Allowance. All these issues are based on various party, legislative, and administrative decisions taken with majority involvement. These decisions may be made at various times from the first meetings on early organization of the chamber soon after the general election through the first several weeks of a new Congress.

In addition to the concerns typical of any transition to a new Congress, the incoming leadership of the 110<sup>th</sup> Congress will likely also consider additional administrative issues related to the appointment of a new Architect of the Capitol, and the completion of the Capitol Visitor Center. This report will be updated as events warrant.

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# Administrative Issues Related to a Change in Majority in the House of Representatives

## Introduction

The change in majority leadership in the House of Representatives could affect House Rules, certain activities in Member offices, committees, and administrative and legislative operations. The transition to a new majority may raise a number of challenges and issues in the administration of those areas for the current majority, and the incoming majority that will assume control of House operations at the beginning of the 110<sup>th</sup> Congress. In addition to the concerns typical of any transition to a new Congress, the incoming leadership of the 110<sup>th</sup> Congress will likely also consider issues related to the appointment of a new Architect of the Capitol and address issues related to the completion of the Capitol Visitor Center.<sup>1</sup>

In the 20<sup>th</sup> century, the majority in the House of Representatives has switched eight times, most recently in 1995, at the beginning of the 104<sup>th</sup> Congress. Prior to 1995, the majority last switched in 1955, at the beginning of the 84<sup>th</sup> Congress, ending a period in which the majority switched between the Republican and Democratic parties in four out of five Congresses between 1947 and 1955. **Table 1** summarizes House majority shifts in the 20<sup>th</sup> century.

In the past century, the House has grown from a relatively modest operation in which Members, assisted by few staff, convened for short legislative sessions<sup>2</sup> to a complex institution featuring longer legislative sessions supported by large professional staffs dedicated to highly specialized chamber legislative and administrative activities,<sup>3</sup> as well as committee and Member office operations. Consequently, information from majority transitions in the House that occurred more than five decades ago may not offer salient examples of many of the issues that could arise in the transition to a Democratic majority in the 110<sup>th</sup> Congress, and will not be considered here.

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<sup>1</sup> Sections of this reports are based on materials previously provided in response to a congressional request and used with the permission of that requester.

<sup>2</sup> In the 56<sup>th</sup> - 59<sup>th</sup> Congresses (1899-1905), Congress was in session an average of 288 days. In the 106<sup>th</sup> - 108<sup>th</sup> Congresses (1999-2004), it met for an average 655 days. Source: U.S. Congress, Joint Committee on Printing, *Official Congressional Directory, 109<sup>th</sup> Congress*, S.Pub. 109-12 (Washington: GPO, 2005), pp. 516, 525-526.

<sup>3</sup> The growth of Congress as an institution is discussed in Nelson Polsby, "The Institutionalization of the U.S. House of Representatives," *American Political Science Review*, vol. 62, 1968, pp. 144-168.

**Table 1. Majority Changes in the House of Representatives, 1899-2005**

Congress	New Majority Party
104 <sup>th</sup> (1995-1996)	Republican
84 <sup>th</sup> (1955-1956)	Democratic
83 <sup>rd</sup> (1953-1954)	Republican
81 <sup>st</sup> (1949-1950)	Democratic
80 <sup>th</sup> (1947-1948)	Republican
72 <sup>nd</sup> (1931-1933)	Democratic <sup>a</sup>
66 <sup>th</sup> (1919-1921)	Republican
62 <sup>nd</sup> (1911-1913)	Democratic

**Source:** U.S. Congress, *Official Congressional Directory, 109<sup>th</sup> Congress*, p. 547.

- a. Although a Republican majority was elected to the 72<sup>nd</sup> Congress, several Representatives-elect died before Congress convened, leaving a Democratic majority to organize the House.

Although the House has undergone significant institutional evolution in the 12 years since the 1995 transition,<sup>4</sup> it is more likely that some of the issues addressed at that time would arise in the current transition and those that might occur in the relatively near future. Some of those issues will be used in this report as examples. At the same time, however, since majority transitions have in the past 50 years been infrequent events that featured political, social, and institutional characteristics unique to the circumstances of each transition, it is also likely that the 1995 transition would not provide a definitive roadmap to all of the issues that could arise in the current majority transition, or those that might follow. The experiences of one participant in the early days of the 1995 transition may be instructive on this point.

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<sup>4</sup> This evolution includes the development of routine, professionalized management of House administrative activities through the Chief Administrative Officer, an officer first appointed at the beginning of the 104<sup>th</sup> Congress; the integration of advanced information technology systems in administrative, committee, and Member office operations; and an enhanced focus on congressional security and emergency planning. In addition, the House has arguably been shaped by external forces that could affect some of its activities. These include closer scrutiny by media and the public due to the relative ease with which they can gather information about congressional activities. Relatedly, the routine use of e-mail, congressional web pages and other modes of communication arguably has created an enhanced capacity for the public to contact their elected officials, and also necessitate the dedication of staff and other resources to manage and respond to those communications.

Referring to various administrative policies that were considered at that time, the participant reportedly noted: “We’re making up an awful lot of this as we go along.”<sup>5</sup>

It should also be noted that during the period between the November elections and when the new Congress convenes in early January, a new incoming majority lacks official institutional authority to implement any changes beyond procedures governing the activities of its conference or caucus. Matters relating to chamber rules, House officers, staff, office space, administrative practices of the outgoing majority, or matters pending floor consideration (if, as is the case in the 109<sup>th</sup> Congress, there is a lame duck session) would remain under the direction of the outgoing majority. While there can be some discussion between leaders of the outgoing and incoming majorities, the outgoing majority would not be bound to change current practices or to accommodate the preferences of the incoming majority until the current Congress adjourns, and the new Congress convenes. As a practical matter, however, the outgoing majority may need to take into account the preferences of the incoming majority, which may prevent the outgoing majority from taking a particular course of action. For example, in the 103<sup>rd</sup> Congress, Representative Norman Mineta, during a brief lame duck session, introduced H.Res. 588, to provide severance pay for some committee staff who were to be terminated as part of the majority transition. In remarks on the House floor, Representative Benjamin Cardin noted that the House was unable to secure unanimous consent to bring up the measure because they “were unable to get the clearance from the Republicans.”<sup>6</sup> In the 104<sup>th</sup> Congress, the House adopted provisions to provide payment for accrued leave to House committee, administrative, and personal staff.<sup>7</sup>

Similarly, it has been reported that in 1994, soon after the elections, the incoming majority reminded the outgoing majority of its obligations to preserve committee and other House records in paper and electronic formats.<sup>8</sup> There were claims thereafter that suggested that while the outgoing majority did provide the incoming majority with access to records, it may not have complied with requests to preserve some electronic records.<sup>9</sup> Additionally, the incoming majority in the last

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<sup>5</sup> Juliet Eilperin, “In Switch, GOP to Grant Leave For Fired Personal Staff of 103<sup>rd</sup>,” *Roll Call*, Jan. 16, 1995.

<sup>6</sup> Quote from “Treatment of Professional Staff During the Transition,” *Congressional Record* (daily edition), Nov. 29, 1994, p. H 11542. See also Kenneth J. Cooper, “GOP to Fire 1,500 on House Staff, Without Severance,” *Washington Post*, Dec. 2, 1994; Jill Zuckman, “House GOP Won’t Pay Severance for Job Losses after Vote,” *Boston Globe*, Dec. 2, 1994; and Bill Straub, “House GOP Leaders Refuse Exit Pay for Lame-Duck Staff,” *South Bend Tribune*, Dec. 4, 1994.

<sup>7</sup> H.Res. 35, 104<sup>th</sup> Congress, adopted Jan. 17, 1995. See Timothy J. Burger and Tim Curran, “All Staffers Now Eligible For Accrued Vacation Pay,” *Roll Call*, Jan. 12, 1995; and Juliet Eilperin, “In Switch, GOP to Grant Leave For Fired Personal Staff of 103<sup>rd</sup>,” *Roll Call*, Jan. 16, 1995.

<sup>8</sup> Timothy J. Burger, “Gingrich Asks Dems Not to Destroy Papers,” *Roll Call*, Nov. 10, 1994; and Jennifer Senior, “Shredder Cuts Committee Paperwork Burden,” *The Hill*, Mar. 29, 1995.

<sup>9</sup> Timothy J. Burger, “Thomas Backs off HIS Lockup,” *Roll Call*, Nov. 21, 1994.

weeks of 1994 reportedly informed managers of several House administrative and support offices that they were dismissed.<sup>10</sup> Similarly, nearly all House support staff were informed during the same period that they were to be terminated, and provided information on the procedures under which they might be rehired.<sup>11</sup> No public record of the effective date of these terminations was identified. No objections to these activities by the outgoing majority were identified. Nevertheless, it is arguable that the incoming majority lacked authority to assume responsibility for House staff prior to assuming formal control of the chamber in January 1995.

While a new incoming majority may lack formal authority to undertake the administration of the House prior to the formal convening of the chamber, it appears that many decisions related to a transition need to be made prior to the formal assumption of majority status. The following sections discuss and analyze some areas in which a new incoming majority would likely need to consider as it prepared to assume responsibility for administration of the House. Many of these activities, however, including the adoption of the rules and election of officers, are routine activities carried out on the first day of a new Congress,<sup>12</sup> regardless of which party commands a majority to organize the House. The rules themselves, as well as the slate of officers put before the House, are debated and approved within the incoming majority conference or caucus before they are laid before the chamber. Similarly, administration of committee organization and funding, establishment of house wide staffing levels, and publication of the Members' Representational Allowance (MRA), are based on various party, legislative, and administrative decisions taken with majority involvement. These decisions may be made at various times from the first meetings on early organization of the chamber soon after the general election through the first several weeks of a new Congress.

## Rules

The principal means of asserting control over the House are the rules that govern floor, committee, and administrative activities, as well as certain Member actions. The majority that organizes the House routinely takes adoption of the rules for the new Congress as one of its first actions. The package of rules the House adopts typically are those rules of the previous Congress, with certain amendments to previous practices and procedures. Amendments to the rules, which are generally known in advance of their formal adoption on the first day of a new Congress, may come from a number of sources, including the conference or caucus of the incoming majority (which formally agrees to the changes prior to their introduction on the first

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<sup>10</sup> Juliet Eilperin, "First Firings Claim Top Managers, Including Heads of Food Service, OFEP, Post Office, Finance Office," *Roll Call*, Dec. 22, 1994.

<sup>11</sup> Diane Duston, "GOP Leaders Tell House Employees to Re-Apply for Their Jobs," *Associated Press Washington Dateline*, Dec. 1, 1994; and Cindy Loose, "GOP Layoffs Spread Holiday Fear Among House's Nonpolitical Workers," *Washington Post*, Dec. 3, 1994.

<sup>12</sup> See CRS Report RL30725 *The First Day of a New Congress: A Guide to Proceedings on the House Floor*, by Mildred Amer.

day of a new Congress), specially appointed study groups of Members, or outside experts. In some circumstances, rules may be amended, or new rules adopted, in response to widely publicized events or activities that could affect House operations.<sup>13</sup>

Adoption of a resolution embodying the rules of the House for the incoming Congress is a feature of the first day of every new Congress.<sup>14</sup> The Rules adopted at the beginning of the 104<sup>th</sup> Congress made significant changes based on a Republican frame of reference that was built over many years as the minority party, and that became part of House Rules as a result of the majority transition. In the 104<sup>th</sup> Congress, the House took a number of steps authorized by amended rules:

- affecting floor proceedings, including matters related to the consideration of budget measures;
- affecting committee structure, procedure, and staff; and
- consolidating management responsibility for financial security and legislative operations, through the reorganization of house officers.<sup>15</sup>

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<sup>13</sup> For example, at the beginning of the 108<sup>th</sup> Congress (2003-2004), House Rules were amended to require the Speaker to deliver to the Clerk of the House a ranked list of Representatives to serve as Speaker pro tempore in the event of a vacancy in the Office of Speaker. At the same time, the Rules were amended to allow the Speaker to convene the House in a place at the seat of government other than the Hall of the House, whenever, in his opinion, the public interest shall warrant it. These Rules changes were part of a broader congressional response to the events of September 11, 2001 and subsequent incidents that temporarily interrupted House operations.

The Rules of the House are most typically considered at the beginning of a new Congress, but they may be amended at any time. During the 109<sup>th</sup> Congress, the House on February 1, 2006 adopted H.Res. 648 under suspension of the Rules, by a vote of 379 - 50, 1 present. H.Res. 648 amended House Rule IV to deny floor privileges to former Representatives, House officers, parliamentarians or former minority party employees nominated as an elected officer of the House if they are a registered lobbyist or agent of a foreign principal; have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or are employed or represent any entity for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal. See CRS Report RL33293, *Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109<sup>th</sup> Congress*, by R. Eric Petersen.

<sup>14</sup> See CRS Report RL32772, *House Rules Changes Affecting Floor Procedures in the 109<sup>th</sup> Congress*, by Thomas P. Carr and Elizabeth Rybicki; CRS Report RS22021, *House Rules Changes Affecting the Congressional Budget Process in the 109<sup>th</sup> Congress (H.Res. 5)*, by Bill Heniff Jr.; and CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104<sup>th</sup> Congress*, by Michael L. Koempel and Judy Schneider.

<sup>15</sup> Details of Rules changes adopted by the 104<sup>th</sup> Congress are based on several CRS products prepared in 1994 and 1995. Those products are archived, but are available upon request from the authors of this report.



## Election of Officers

Officers and other officials of the House are currently elected or appointed in accordance with House Rule II of the 109<sup>th</sup> Congress.<sup>16</sup> These positions have developed over time and in accord with various changes to the Rules adopted by the chamber. While some positions, like that of the Clerk, have existed since the first Congress, others (the Chief Administrative Officer) are newer creations or were recently reappointed after a period of vacancy (the Historian).<sup>17</sup>

Officers elected by the House currently include the Clerk, Sergeant at Arms, Chief Administrative Officer, and the Chaplain. These Officers are elected by the House at the beginning of each Congress to serve until their successors are chosen. In recent practice, the election process has entailed the offering of one resolution containing the majority slate of officers. This has then been followed by a request from the minority for a division of the question and separate vote on the Chaplain, a position that has generally been uncontested during the opening proceedings. The Chaplain's election has been followed by an amendment to the remainder of the resolution offered by a member of the minority party, offering a separate slate of candidates for the other positions.<sup>18</sup> The amendment is generally then rejected and the remainder of the resolution is agreed to. Either the House or the Speaker, may remove the Clerk, the Sergeant-at-Arms, or the Chief Administrative Officer. The Speaker has the power to make a temporary appointment if there is a vacancy in any of the offices, which lasts until a person is chosen by the House.

The Parliamentarian, General Counsel, Legislative Counsel, Law Revision Counsel, and Historian are each appointed by the Speaker. The Inspector General is jointly appointed by the Speaker and Majority and Minority Leaders. Although some of these positions have been characterized by the lengthy tenure of the incumbents, others have experienced more frequent turnover, but they all serve at the pleasure of their appointing authority.

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<sup>16</sup> U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States*, One Hundred Ninth Congress, compiled by John V. Sullivan, Parliamentarian, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., H. Doc. 108-241 (Washington: GPO, 2005), sec. 640-670.

<sup>17</sup> For more information on the history and role of each of the elected and appointed officials, see CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by Ida Brudnick.

<sup>18</sup> Although the election for Chaplain at the opening of the Congress has generally been uncontested, discussion has resulted over the selection of a replacement upon the resignation of an incumbent as well as periodic proposals for eliminating the position. For more information, see CRS Report RS20427, *House and Senate Chaplains*, by Mildred Amer; CRS Report RS20456, *Chaplain of the House: Selection and Related Procedures*, by Paul S. Rundquist and Richard S. Beth; and the House Chaplain's website, available at [<http://chaplain.house.gov>].

## Administrative Oversight

### Administrative Oversight Structure

A number of entities share responsibility for administration of the House side of the Capitol. The House Office Building Commission has authority in statute over the use and occupancy of House office buildings and the House side of the Capitol. The House Office Building Commission consists of the Speaker and two other appointees, traditionally the Majority Leader and Minority Leader. The House Office Building Commission was first authorized by an act approved on March 4, 1907.<sup>19</sup> This was soon followed by a joint resolution governing the room assignment process in the House, approved on May 28, 1908.<sup>20</sup> The Committee on House Administration has legislative jurisdiction over the assignment of office space for Members, Delegates, the Resident Commissioner, and committees under House Rule X, clause 1(j) of the 109<sup>th</sup> Congress.<sup>21</sup> The House Appropriations Committee, through its responsibility for consideration of the annual spending measure for the legislative branch, has also included provisions affecting the administration of the House side of the Capitol in this legislation.<sup>22</sup> The House Appropriations Committee Subcommittee on the Legislative Branch was eliminated in a reorganization plan announced February 9, 2005, and the legislative branch appropriations bill and all accompanying report language and directives currently are considered by the full House Appropriations Committee. Press accounts also indicate that during the majority transition in 1994, the incoming majority variously considered proposals for limiting or altering the use of House space or privatizing certain House services.<sup>23</sup>

### Areas of Influence and Recent Actions

The House Office Building Commission may issue rules and regulations that govern the use and occupancy of all rooms in the House Office Buildings. For example, the Commission recently issued amendments to the smoking policy governing all public areas of the House Office Buildings. The amendments were announced in a “Dear Colleague” letter issued by the Committee on House Administration on June 22, 2006.<sup>24</sup> Smoking has also been addressed recently by the House Appropriations Committee, which adopted a committee amendment offered

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<sup>19</sup> Mar. 4, 1907, ch. 2918, 34 Stat. 1365; 2 U.S.C. 2001 et seq.

<sup>20</sup> May 28, 1908, No. 30, 35 Stat. 578; 2 U.S.C. 200 et seq.

<sup>21</sup> H.Res. 5, adopted Jan. 4, 2005. This is a responsibility first noted in the language creating the committee in 1946 (P.L. 79-601, Aug. 2, 1946, 60 Stat. 826).

<sup>22</sup> The Senate by tradition does not consider appropriations for House office buildings, which are contained in the budget of the Architect of the Capitol, although the House figure, as passed by the House, is counted in the Senate bill.

<sup>23</sup> Timothy J. Burger, “GOP to Sell O’Neill Annex?,” *Roll Call*, Dec. 22, 1994; Juliet Eilperin, “Cox Proposal Would Put Members Into Suites Now Occupied by Staff,” *Roll Call*, Jan. 5, 1995.

<sup>24</sup> Available on the website of the Committee on House Administration, [[http://cha.house.gov/services/dear\\_col.aspx?NewsID=1358](http://cha.house.gov/services/dear_col.aspx?NewsID=1358)].

by Representative Jim Moran prohibiting the use of funds for establishment or operation of a smoking area in the cafeteria of the Rayburn House Office Building during the mark up of H.R. 5521, the FY2007 bill, on May 25, 2006. This measure was included in the bill that passed the House on June 7.

The House Office Building Commission also has a role in the approval of new House space. This is evident in references to the chamber's emergency preparedness planning in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002. The act stipulates that

Notwithstanding any other provision of law, in order to respond to an emergency situation, the Chief Administrative Officer of the House of Representatives may acquire buildings and facilities for the use of the House of Representatives by lease, purchase, or such other arrangement as the Chief Administrative Officer considers appropriate (including a memorandum of understanding with the head of an executive agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency), subject to the approval of the House Office Building Commission.<sup>25</sup>

## Staffing

### Number of Staff

Congressional leadership has long influenced the size of the House workforce. This number of staffers has both grown and shrunk over the years. For example, the FY1994 Legislative Branch Appropriations Act mandated a 4% decrease in full-time equivalent employees in various entities of the legislative branch (defined in the act as the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the General Accounting Office, the Government Printing Office, the Library of Congress, and the Office of Technology Assessment), while in 1995 the new majority implemented a plan to further reduce the total number of staff of House committees by at least one-third.<sup>26</sup> In a new Congress, leaders may provide overall direction in this area, although this authority would not necessarily be related to a change in majority.

### Staff Leaving House Service

Members and committees determine annual and sick leave policies for their own employees, subject to applicable House Rules and federal laws. The Office of Employee Services has stated that "It is the responsibility of your employing authority to determine whether you are eligible to receive a lump sum payment for leave. The employing authority may provide a lump sum payment for accrued annual leave only if such leave was accrued in accordance with written personnel policies

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<sup>25</sup> P.L. 107-117, Jan. 10, 2002, 115 Stat. 2317; 40 U.S.C. 175a.

<sup>26</sup> P.L. 103-69, Aug. 11, 1993, 107 Stat. 709.

established prior to the accrual of such leave.”<sup>27</sup> Regulations concerning sick leave, annual leave, the transferability of leave to other federal positions, eligibility for unemployment compensation, and post-employment health insurance options, are also provided by that office (B-215 Longworth House Office Building; 202-225-1435).

The provision of benefits for staff leaving House service became an issue of particular interest after the most recent partisan changeover. Topics discussed included the impact of involuntary separation on those employees close to retirement, as well as payment for unused leave that departing employees were unable to utilize before the new Congress. Although the incoming majority initially cited cost concerns and stated that leave not used prior to the new Congress would not be compensated, this policy was changed early in the 104<sup>th</sup> Congress to provide payment to separated administrative and legislative staff and made retroactive to those employees employed through the end of the 103<sup>rd</sup> Congress.<sup>28</sup>

## Administrative Staff

Each of the House Officers and officials employs a cadre of support staff. Overall figures or direction for the offices may be directed by leadership or other concerns, including those voiced by the House Committee on Appropriations and the Committee on House Administration.<sup>29</sup>

Most of the positions in these offices are filled by professionals, and *Congressional Quarterly* has written that “the only jobs remaining under patronage are those that do not require specialized skills or technical knowledge.”<sup>30</sup> Any change in partisan control could potentially have an impact on the staff of the administrative offices, although the effects may be more significant for some staff than others. In late December 1994, according to news sources, the new majority “fired virtually the House’s entire middle management,” or approximately 50 people.<sup>31</sup> Other employees

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<sup>27</sup> Information provided by the Office of Employee Services in the 110<sup>th</sup> *Congressional Transition* portion of the House website. House access only, at [<http://housenet.house.gov>]. Also, see CRS Report RS22527, *Closing a Congressional Office: Overview and Guide to House and Senate Resources, 109<sup>th</sup> Congress*, by R. Eric Petersen.

<sup>28</sup> Juliet Eilperin, “In Switch, GOP to Grant Leave For Fired Personal Staff of 103<sup>rd</sup>,” *Roll Call*, Jan. 16, 1995; Editorials, “A Welcome Flip-Flop,” *Roll Call*, Jan. 16, 1995; Timothy J. Burger and Tim Curran, “All Staffers Now Eligible For Accrued Vacation Pay,” *Roll Call*, Jan. 12, 1995; Gabriel Kahn, “GOP Retreats on Vacation Pay For Administrative Staff Only,” *Roll Call*, Dec. 8, 1994.

<sup>29</sup> For support office staffing figures, see CRS Report RL30996, *Legislative Branch Employment: Trends in Staffing, 1960-2000*, by Paul E. Dwyer and R. Eric Petersen.

<sup>30</sup> Congressional Quarterly, *CQ’s Guide to Congress*, 5<sup>th</sup> ed., 2 vols. (Washington: CQ Press, 2000), vol. 2, pp. 800-801.

<sup>31</sup> Juliet Eilperin, “Just in Time, Republicans Install New Managers To Replace Internal Officials Fired in December,” *Roll Call*, Jan. 5, 1995.

were given the opportunity to compete for the positions they held at the time, but guarantees of continued employment were not made.<sup>32</sup>

## Committees

A majority transition could have significant effects on committee organization and operations. The Rules of the House, particularly Rules X-XIII, govern the authority and operations of its committees and subcommittees. The House allows each of its committees to decide how to conduct business, subject to various requirements and prohibitions.<sup>33</sup>

In any transition to a new Congress, the majority could consider amendments to rules governing the activities of committees. In practice, when a new Congress convenes, leaders typically address three areas of chamber organization and administration directly related to committee activities. These areas are:

- negotiation of individual committee sizes and ratios between party leaders;
- assignment of chairman, ranking minority members and other Members to committees by party caucus or conference, according to the policies of those entities;<sup>34</sup> and
- adoption of a resolution authorizing the funding of expenses of committees several weeks after the House convenes.<sup>35</sup>

It appears unlikely that a change of majority would significantly alter the need to address these issues during early organization meetings, or soon after the new Congress convenes, although the form and approach used in the past to address these concerns could be amended. In addition to those matters, however, the prospect of a majority transition raises questions related to committee structure and jurisdiction, staffing levels,<sup>36</sup> office space, and the preservation of committee records, in paper and electronic form. In a majority transition, any of the elements of existing committee practice could be subject to review and revision.

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<sup>32</sup> Diane Duston, "GOP Leaders Tell House Employees to Re-Apply for Their Jobs," *Associated Press*, Dec. 1, 1994; Gabriel Kahn, "GOP Retreats on Vacation Pay For Administrative Staff Only," *Roll Call*, Dec. 8, 1994.

<sup>33</sup> See CRS Report 97-357, *House Rules Affecting Committees*, by Christopher M. Davis.

<sup>34</sup> See CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider.

<sup>35</sup> See CRS Report RL32793 *House Committee Funding Legislation, 109<sup>th</sup> Congress*, by R. Eric Petersen; and CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104<sup>th</sup>-109<sup>th</sup> Congresses*, by R. Eric Petersen.

<sup>36</sup> See "Staffing" section, above.

## Structure and Jurisdiction

At the beginning of the 104<sup>th</sup> Congress, the new majority made extensive changes to the House committee system. These changes included the abolition of some panels; a reduction in the number of committees and subcommittees on which a Member may serve; reassignment of jurisdiction over certain policy areas among committees; and changes to committee names and the structure of subcommittees. In addition, committee procedures were changed and staff levels reduced.<sup>37</sup>

## Office Space

In the 104<sup>th</sup> Congress, the majority transition in both chambers reportedly triggered the most extensive office shuffle in congressional history.<sup>38</sup> In addition to the relocation of Member offices typical in any new Congress, the majority transition necessitated the relocation of committee staff between facilities occupied by the majority and minority on those panels. The costs of moving committee staff between majority and minority facilities in the event of a majority transition potentially could be met from the interim funds authorized for committees to use prior to March 30 of the first session of a new Congress. In the event that funds were unavailable, unobligated funds from other House accounts could be transferred, or the costs of moves could be incorporated into committee expense requests when the House considers committee funding.<sup>39</sup> In addition to funding issues, a majority transition could raise questions related to parity in the distribution of committee office space between the majority and minority.

## Paper and Electronic Records

House Rule VII governs the archiving and availability of certain records of the House, and requires the chairman of each committee to transfer any noncurrent committee records to the Clerk for transfer to the National Archives and Records Administration.<sup>40</sup> Additional guidelines regarding records are included in Rule XI, which requires committees to keep a complete record of all committee action, including substantially verbatim accounts of the remarks made during meetings or hearings, and a record of the votes taken on any question for which a recorded vote is demanded. The rule notes that “all committee hearings, records, data, charts, and files” are the property of the House.<sup>41</sup> Custody of committee records resides with the majority. During a majority transition, an incoming majority might establish

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<sup>37</sup> See CRS Report 95-187, *Committee System: Rules Changes in the House, 104<sup>th</sup> Congress*, by Judy Schneider.

<sup>38</sup> Alice A. Love, “The Mother of all Moves: Price Tag for Massive Office Shuffle is \$1.4 Million,” *Roll Call*, Nov. 14, 1994.

<sup>39</sup> See CRS Report RL32793, *House Committee Funding Legislation, 109<sup>th</sup> Congress*, by R. Eric Petersen.

<sup>40</sup> House Rule VII. Also, see U.S. Congress, House, Office of the Clerk, *Records Management Manual for Committees*, Publication C-1 (Washington: Oct. 2004).

<sup>41</sup> House Rule XI(e)(1)(A).

procedures to assure the orderly transfer of current committee and other official records from the custody of the outgoing majority. Since it lacks authority to enforce such a policy until it formally assumes the majority when the next Congress convenes, however, the leadership of the incoming majority may need to negotiate with the leadership of the outgoing majority to establish an effective system to preserve committee and other official records of the House. During the 104<sup>th</sup> Congress transition, it was reported that Representative Newt Gingrich, who became Speaker in the 104<sup>th</sup> Congress, requested that Speaker Tom Foley cooperate in “making sure that official documents will not be removed or destroyed.”<sup>42</sup> Similar requests were reportedly made by incoming majority transition leaders and prospective committee chairs.<sup>43</sup> No official information regarding the effectiveness of committee record preservation efforts during the 104<sup>th</sup> Congress majority transition was identified.

## Interim Funding, 110<sup>th</sup> Congress

Under House Rule X, clause 7, committees have interim funding authority through March 31 of the first session of a new Congress. Committee expenses incurred under the budget authority of H.Res.224 (109<sup>th</sup> Congress), providing for the expenses of House committees, other than Appropriations Committee, for the 109<sup>th</sup> Congress and the interim period at the beginning of the 110<sup>th</sup> Congress, are the responsibility of the outgoing chairman, and must be authorized by that chairman for reimbursement. From noon on January 3, when the 110<sup>th</sup> Congress convenes, until the election by the House of the committee concerned, the outgoing chairman, if a Member of the 110<sup>th</sup> Congress, has the authority to sign vouchers for the payment of expenses for the committee until the new chairman is elected. If the outgoing chairman is not a Member of the 110<sup>th</sup> Congress, then the outgoing ranking member of the committee, as it was constituted at expiration of the 109<sup>th</sup> Congress, and who is a member of the majority party in the 110<sup>th</sup> Congress, may authorize payments.<sup>44</sup>

## Members

A majority transition is unlikely to significantly affect Member office activities in the first few weeks of a new Congress. The House, under the aegis of a new majority, could consider changes to current practices related to the funding of Member office operations, authorized staffing levels, and procedures related to chamber support of Member office operations.

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<sup>42</sup> Timothy J. Burger, “Gingrich Asks Dems Not to Destroy Papers,” *Roll Call*, Nov. 10, 1994; and Timothy J. Burger, “Thomas Backs off HIS Lockup,” *Roll Call*, Nov. 21, 1994.

<sup>43</sup> Jennifer Senior, “Shredder Cuts Committee Paperwork Burden,” *The Hill*, Mar. 29, 1995.

<sup>44</sup> U. S. House, Chief Administrative Officer, Office of Finance and Procurement, “Financial Counseling Committee and Leadership Transition Rules,” Nov. 2006, available in the *110<sup>th</sup> Congressional Transition* portion of the House website. House access only, at [<http://housenet.house.gov>].

The U.S. Constitution establishes qualifications for Representatives and Senators, but is silent about the roles and duties of an individual Member of Congress.<sup>45</sup> House Rule III, section 1, requires only that Members be present and vote on each question placed before the House. Members of the House are supported by personal offices in which staff perform legislative research, prepare background and briefing material for Members to study, provide constituency service, manage constituency correspondence, handle media relations, and perform administrative and clerical functions. House staff and office facilities are provided through funds appropriated annually, and allocated to Representatives according to the formulas established under the Member's Representational Allowance.<sup>46</sup> The precise duties and tasks carried out in a Member office vary with the Member's personal preferences, which are typically informed by seniority, committee assignment, policy focus, district or state priorities, institutional leadership, and electoral considerations.<sup>47</sup> In hiring staff, Members of Congress must comply with the requirements of the Congressional Accountability Act (CAA), which applies 12 civil rights, labor, and workplace safety laws to Congress and its associated agencies.<sup>48</sup>

## Member Office Assignment Lottery Process

The 110<sup>th</sup> Congress Transition page of the House internal website provides details regarding the Member office lottery and subsequent move process.<sup>49</sup> The office space lottery began on November 9 and continued through November 17. Costs associated with the move are charged to the individual 2006 Members' Representational Allowance (MRA) accounts.

The lottery is conducted according to a policy first addressed in an act approved on May 28, 1908.<sup>50</sup> For anyone wishing to change rooms, the act requires a Member or Member-elect to file a written request for a vacant room. Unoccupied space is assigned by the Architect of the Capitol under the direction of the House Office Building Commission.<sup>51</sup> The Superintendent of House Office Buildings, an employee of the Architect, supervises office moves and officiates at the office lottery. Speakers of the House, as chair of the House Office Building Commission, have periodically issued updates to the regulations initially promulgated in 1908, for example, adding the requirement that departing House Members must vacate their

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<sup>45</sup> Art. I, Sec. 2 of the Constitution requires that Members of the House of Representatives be at least 25 years old, a citizen of the United States for at least seven years, and a resident of the state from which they are elected at the time they are elected.

<sup>46</sup> See CRS Report RL30064, *Congressional Salaries and Allowances*, by Paul Dwyer.

<sup>47</sup> See CRS Report RL33686, *Roles and Duties of a Member of Congress*, by R. Eric Petersen.

<sup>48</sup> P.L. 104-1, Congressional Accountability Act of 1995, 2 U.S.C. 1301. The CAA does not impose uniform workplace practices, such as work schedules, job duties, salaries, vacation and leave policies, holidays, fringe benefits, or procedures for hiring and firing staff.

<sup>49</sup> House access only, [<http://housenet.house.gov>].

<sup>50</sup> May 28, 1908, 35 Stat. 578; 2 U.S.C. 2004 et seq.

<sup>51</sup> Mar. 3, 1921, ch. 124, 41 Stat. 1291.



offices by December 1 following the election. Members with equal lengths of service draw numbers to determine order of office selection.

Current regulations reflect a ban on personal office moves during a session of Congress which was first contained in an amendment to the FY1994 Legislative Branch Appropriations Act.<sup>52</sup> The ban became permanent with a provision in the Legislative Branch Act for FY1996 and subsequently included in the House Office Building Commission's regulations issued October 7, 1996.<sup>53</sup> Members subsequently elected to vacant seats have occupied their predecessors' offices until the regular lottery following the next general election.

## **Members Representational Allowance**

The Committee on House Administration issued an order on August 3, 1995 creating the Members' Representational Allowance (MRA), effective September 1, 1995.<sup>54</sup> This allowance governs the spending authority of each Member office. The 1995 creation of the MRA combined formerly separate allowances providing for clerk hire, official expenses, and official mail. The MRA is still computed by the committee based on these three components. The clerk hire allowance is the same for all Members, while the official expense and official mail component are based on a formula that takes into account the distance between the Capitol and a Member's district, the varying costs of office space in each district, and the number of non-business addresses. The allocation for each office is generally printed in the Chief Administrative Officer's *Statement of Disbursements of the House*.

## **Architect of the Capitol**

### **Forthcoming Appointment Issues**

From 1793, when the design of the Capitol was selected by President George Washington, until 1989, the Architect of the Capitol was chosen by the President for an unlimited term without any direct action by Congress. A provision in the FY1990 Legislative Branch Appropriations Act revised the selection process, enabling the President to nominate the Architect for a 10-year term, subject to the advice and consent of the Senate. This act ensures further congressional involvement in the selection process through the creation of a commission charged with recommending individuals to the President for appointment to this office.

The original membership of the commission included the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority and

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<sup>52</sup> P.L.103-69, Sec. 312, Aug. 11, 1993, 107 Stat 712. See also Rule 3, "Rules and Procedures Governing the Selection and Assignment of Suites in the House Office Buildings," House Office Building Commission, Oct. 7, 1996, contained in letter from Superintendent of House Office Buildings Robert R. Miley to Members on Nov. 7, 1996.

<sup>53</sup> P.L.104-53, Sec. 307, Nov. 19, 1995, 109 Stat 537.

<sup>54</sup> Order No. 41, which is reprinted within the notes for 2 U.S.C. 57.

minority leaders of the House and the Senate, and the chairmen and the ranking minority members of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate. In 1995, the commission was expanded to include the chairmen and ranking minority members of the House and Senate Appropriations Committees.

The 1989 legislation required the incumbent to either be reconfirmed or retire no later than November 21, 1995, the sixth anniversary of the enactment of the act. Then-Architect George White, who had been appointed by President Richard Nixon on January 27, 1971, chose to retire on the anniversary rather than seek reappointment. Alan Hantman, FAIA, the current Architect, was one of five prospective candidates suggested to President Bill Clinton by the search committee. President Clinton subsequently nominated Hantman on January 6, 1997, and he was confirmed by the Senate on January 30, 1997. In the period between White's and Hantman's tenure, William L. Ensign, a former Assistant Architect of the Capitol, served as the acting Architect of the Capitol.

Earlier this year, Hantman indicated that he would not seek reappointment to the position of the Architect.<sup>55</sup> Various scenarios for 2007 are possible — including filling the position with a new or current employee on an acting or contract basis. Press accounts, as well as a statement by Senator Wayne Allard, chairman of the Senate Committee on Appropriations Subcommittee on the Legislative Branch, have examined what, if any, effect this turnover may have on the completion of the Capitol Visitor Center.<sup>56</sup>

## Capitol Visitor Center<sup>57</sup>

Issues related to the new Capitol Visitor Center have been raised during hearings before the House and Senate Appropriations Committees over the past few years. Specific areas of interest have included the use of the expansion space in the center, the total final cost, construction and safety challenges and delays, and the estimated date of completion and opening for congressional and public use. In analysis provided at a hearing before the Senate Committee on Appropriations Subcommittee on the Legislative Branch on November 15, 2006, the Government Accountability Office (GAO) estimated a current completion date “of October 26, 2007,” while noting that “further delays are possible” and that the additional six week delay since the last estimate “was attributable to problems with the project’s most critical activity — the fire protection system.”<sup>58</sup> This estimate does not include time

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<sup>55</sup> Daphne Retter, “Beleaguered Architect of Capitol Ready to Go,” *CQ Today*, Aug. 1, 2006.

<sup>56</sup> John McArdle, “Visitor Center Faces Management Overhaul,” *Roll Call*, Sept. 26, 2006; Jackie Kucinich, “Hantman departure won’t change CVC schedule, spokesman says,” *The Hill*, Aug. 2, 2006, p.4; Daphne Retter, “Door May Be Open for Hantman in 2007,” *CQ Today*, Sept. 25, 2006.

<sup>57</sup> For more information, see CRS Report RL31121, *The Capitol Visitor Center: An Overview*, by Stephen W. Stathis.

<sup>58</sup> Statement of Bernard L. Ungar, Director, and Bradley M. James, Assistant Director, (continued...)

for the installation of historic artifacts and the start of operations. GAO has also estimated that the “total cost of the entire CVC project at completion is likely to be about \$592 million without an allowance for risks and uncertainties,” and in response to questions during the hearing, indicated that the final figure could exceed \$600 million.<sup>59</sup>

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<sup>58</sup> (...continued)

Physical Infrastructure Issues, U.S. Government Accountability Office, “Update on Status of Project’s Schedule and Cost As of November 15, 2006,” submitted to U.S. Congress, Subcommittee on the Legislative Branch, Committee on Appropriations, Nov. 15, 2006, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., available at [<http://www.gao.gov/new.items/d07129t.pdf>], p 2.

<sup>59</sup> Ibid., p 23; John McArdle, “CVC Debut Delayed to ’08, Cost Nears \$600M,” *Roll Call*, Nov. 16, 2006, p. 1.