



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

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November 3, 2010

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

RL33724

## Summary

Since 1945, the majority in the House of Representatives has switched nine times, most recently in 2007, at the beginning of the 110<sup>th</sup> Congress. Prior to 2007, the majority last switched in 1995, at the beginning of the 104<sup>th</sup> Congress, ending a period in which the same party held a majority for 40 years. The majority transition that took place at the beginning of the 84<sup>th</sup> Congress ended a period in which the majority switched between the Republican and Democratic parties in four out of five Congresses between 1947 and 1955.

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 administration of the House prior to the formal convening of the chamber, it appears that many decisions related to a transition may 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 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) establishment of the Members' Representational Allowance. While not official until the convening of the new Congress, these issues are based on various party, legislative, and administrative decisions that may be taken by the incoming majority. 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.

This report will be updated as events warrant.

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## Introduction

A change in majority leadership in the House of Representatives could affect House rules, committees, and administrative and legislative operations. The transition to a new majority may raise a number of related challenges and issues for the current majority and the incoming majority that will assume control of House operations at the beginning of the 112<sup>th</sup> Congress when it convenes in January 2011.<sup>1</sup>

Since 1945, the majority party in the House of Representatives has switched nine times, most recently in 2007, at the beginning of the 110<sup>th</sup> Congress. Prior to 2007, the majority last switched in 1995, at the beginning of the 104<sup>th</sup> Congress, ending a period in which the same party held a majority for 40 years. The majority transition that took place at the beginning of the 84<sup>th</sup> Congress ended 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 since 1910.

While majority transitions are an infrequent feature in the past 100 years, institutional development has been significant. Over this period the House has grown from a relatively modest operation in which Members, assisted by few staff, convened for short legislative sessions to a complex institution featuring longer legislative sessions.<sup>2</sup> These are supported by professional staff dedicated to highly specialized floor, committee, and Member office activities, as well as administrative functions.<sup>3</sup> 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 Republican majority in the 112<sup>th</sup> Congress and will not be considered here.

The House has undergone significant institutional evolution in the 16 years since the 1995 transition,<sup>4</sup> but it is more likely that some of the issues addressed at that time and at the time of the 2007 transition would arise in the current transition and those that might occur in the relatively near future. Some of the issues addressed in 1995 and 2007 will be used in this report as examples. At the same time, however, since majority transitions have in the past 60 years been infrequent events that featured political, social, and institutional characteristics unique to the circumstances of each transition, it is also likely that the experiences of the 1995 and 2007

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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 108<sup>th</sup> -110<sup>th</sup> Congresses (2003-2008), it met for an average 695 days. Source: U.S. Congress, Joint Committee on Printing, *Official Congressional Directory, 111<sup>th</sup> Congress*, S.Pub. 111-14 (Washington: GPO, 2009), pp. 530-531, 540-541.

<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.

<sup>4</sup> This evolution includes the development of routine, professionalized management of House administrative activities through the Chief Administrative Officer, an officer first elected 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 in part to the relative ease with which they can gather information about congressional activities. Relatedly, the routine use of e-mail, congressional Web pages, social media tools, and other modes of communication arguably has created an enhanced capacity for the public to contact their elected officials, which may necessitate the dedication of staff and other resources to manage and respond to those communications.

transitions 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. 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>

**Table I. Majority Changes in the House of Representatives, 1910-2010**

Congress	New Majority Party
110 <sup>th</sup> (2007-2008)	Democratic
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, Joint Committee on Printing, *Official Congressional Directory, 111<sup>th</sup> Congress, 111<sup>th</sup> Cong., 1<sup>st</sup> sess.*, S. Pub. 111-14 (Washington: GPO, 2009), p. 563.

- a. A Republican majority was elected to the 72<sup>nd</sup> Congress. Prior to the convening of Congress, several Representatives-elect died, leaving a Democratic majority to organize the House.

It should also be noted that during the period between the November elections and early January, when the new Congress convenes, 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 there is a lame duck session<sup>6</sup> as was the case in the 103<sup>rd</sup> and 109<sup>th</sup> Congresses, and as scheduled in the 111<sup>th</sup> Congress) would remain under the direction of the outgoing majority.

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 may need to be made prior to the formal assumption of majority status. The following sections discuss and analyze some areas which a new incoming majority might 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, 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,

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

<sup>6</sup> For further consideration of lame duck sessions and activities, see CRS Report RL34597, *Annual Appropriations Acts: Consideration During Lame-Duck Sessions*, by Jessica Tollestrup; and CRS Report RL33677, *Lame Duck Sessions of Congress, 1935-2008 (74<sup>th</sup>-110<sup>th</sup> Congresses)*, by Richard S. Beth.

establishment of House-wide staffing levels, and establishment of the Member Representational Allowance (MRA), are based on various party, legislative, and administrative decisions taken by the incoming majority soon after the general election through the first several weeks of a new Congress. While some of these decisions may be made during the transition period prior to a new Congress, they are fully effective only after it convenes.

## 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 up adoption of the rules for the new Congress as one of its first actions. The package of rules the House adopts typically is 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 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>7</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>8</sup> 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.

At the beginning of the 110<sup>th</sup> Congress in 2007, the House adopted rules changing certain floor procedures.<sup>9</sup>

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<sup>7</sup> 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 110<sup>th</sup> Congress, the House on March 11, 2008 adopted H.Res. 895, establishing an Office of Congressional Ethics in the House, and amended some House Rules to incorporate the activities of the newly created entity into House operations. During the 109<sup>th</sup> Congress, the House on February 1, 2006 adopted H.Res. 648, which 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.

<sup>8</sup> See CRS Report R40509, *House Rules Changes in the 111<sup>th</sup> Congress Affecting Floor Proceedings*, by Megan Suzanne Lynch and Elizabeth Rybicki; and CRS Report RL34149, *House Rules Changes Affecting the Congressional Budget Process Made at the Beginning of the 110<sup>th</sup> Congress*, by Bill Heniff Jr.

<sup>9</sup> Details of Rules changes adopted by the House in the 104<sup>th</sup> and 110<sup>th</sup> Congresses are based on several CRS products prepared in 1994, 1995, 2008, and 2009. 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 111<sup>th</sup> Congress.<sup>10</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, including the Chief Administrative Officer (CAO), are newer creations.<sup>11</sup>

Officers elected by the House currently include the Clerk, Sergeant at Arms, CAO, 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>12</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 CAO. 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 elected by the House.

The Parliamentarian, General Counsel, Legislative Counsel, Law Revision Counsel, head of the Office of Interparliamentary Affairs, and Historian are each appointed by the Speaker.<sup>13</sup> 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.

## 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 (HOBC) has authority in statute over the use and occupancy of House office buildings and the House side of the Capitol. HOBC consists of the Speaker and

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<sup>10</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, 110<sup>th</sup> Cong., 2<sup>nd</sup> sess., H. Doc. 110-162 (Washington: GPO, 2009), sec. 640-670, pp. 352-371.

<sup>11</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 A. Brudnick.

<sup>12</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 the House Chaplain's website, available at <http://chaplain.house.gov>.

<sup>13</sup> In some instances, as with the recent appointment of a House Historian, the Speaker may consult with leaders of the minority party or others.

two other appointees, traditionally the majority leader and minority leader. HOBC was first authorized by an act approved on March 4, 1907.<sup>14</sup> This was soon followed by a joint resolution governing the room assignment process in the House, approved on May 28, 1908.<sup>15</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 111<sup>th</sup> Congress.<sup>16</sup> The House Appropriations Subcommittee on the Legislative Branch, 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>17</sup> 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>18</sup> Some changes adopted at that time, including the privatization of various services, including various convenience services, were not revisited during the 2007 transition.

## **Areas of Influence**

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 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>19</sup> Smoking has also been addressed by the House Appropriations Committee, which adopted a committee amendment offered 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 markup of H.R. 5521, the FY2007 legislative branch appropriations bill, on May 25, 2006. The smoking provisions were included, and the bill passed the House on June 7.<sup>20</sup> Finally, the Committee on House Administration issued an updated smoking policy on April 14, 2010, prohibiting smoking “in and/or adjacent to the House Office Buildings and areas assigned to the U.S. House of Representatives at the U.S. Capitol Building,” subject to some exceptions.<sup>21</sup>

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<sup>14</sup> March 4, 1907, ch. 2918, 34 Stat. 1365; 2 U.S.C. 2001 et seq.

<sup>15</sup> May 28, 1908, No. 30, 35 Stat. 578; 2 U.S.C. 200 et seq.

<sup>16</sup> H.Res. 5, 108<sup>th</sup> Congress, adopted January 4, 2005. This is a responsibility first noted in the language creating the committee in 1946 (P.L.79-601, August 2, 1946, 60 Stat. 826).

<sup>17</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>18</sup> Timothy J. Burger, “GOP to Sell O’Neill Annex?” Roll Call, December 22, 1994; Juliet Eilperin, “Cox Proposal Would Put Members Into Suites Now Occupied by Staff,” *Roll Call*, January 5, 1995.

<sup>19</sup> Available from the authors of this report.

<sup>20</sup> Following House passage, H.R. 5521 was placed on the Senate Legislative Calendar under General Orders, and no further action was taken.

<sup>21</sup> Under the policy “[t]he smoking policy in office space(s) assigned to Members, Committees, Officers, and support offices continues to be at the discretion of and determined by the employing authority of each office.” Dear Colleague Letter from Robert A Brady, Chair, Committee on House Administration, and Daniel E. Lungren, Ranking Member, “U.S. House of Representatives Smoking Policy,” April 14, 2010, <http://e-dearcolleague.house.gov/details.aspx?35656>.



The House Office Building Commission also has a role in the approval of new House space.<sup>22</sup> All House entities involved with physical plant responsibilities may continue to address issues related to the condition and deferred maintenance of House facilities.

## Staffing

### Number of Staff

Congressional leadership has long influenced the size of the House workforce. Between 1977 and 2009 the number of staff working in the House grew from approximately 9,000 to 9,800. This relatively small growth has been characterized by a significant redistribution of staff from committees to Member and leadership offices.<sup>23</sup> In a new Congress, leaders may provide overall direction in the area of staffing, but this may not be directly related to a majority transition.

### Staff Leaving House Service

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 agreement to bring up the measure because they “were unable to get the clearance from the Republicans.”<sup>24</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>25</sup> In the 109<sup>th</sup> Congress, H.Res. 1104, to provide severance to House staff employed in leadership and committee offices who were to be separated as a consequence of the majority transition, was defeated by voice vote. A search of measures considered in the House in the 110<sup>th</sup> Congress did not identify consideration of provisions similar to those adopted in the 104<sup>th</sup> Congress.

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 established prior to the accrual of such leave.”<sup>26</sup> Regulations concerning sick

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<sup>22</sup> See P.L. 107-117, 115 Stat. 2317; P.L. 110-161, 121 Stat. 2243; and P.L. 110-437, 122 Stat. 4997.

<sup>23</sup> For detailed analysis, see CRS Report R41366, *House of Representatives and Senate Staff Levels in Member, Committee, Leadership, and Other Offices, 1977-2010*, by R. Eric Petersen and Amber Hope Wilhelm.

<sup>24</sup> Quote from “Treatment of Professional Staff During the Transition,” *Congressional Record* (daily edition), November 29, 1994, p. H 11542. See also Kenneth J. Cooper, “GOP to Fire 1,500 on House Staff, Without Severance,” *Washington Post*, December 2, 1994; Jill Zuckman, “House GOP Won’t Pay Severance for Job Losses after Vote,” *Boston Globe*, December 2, 1994; and Bill Straub, “House GOP Leaders Refuse Exit Pay for Lame-Duck Staff,” *South Bend Tribune*, December 4, 1994. Similar actions were taken in the Senate during the 108<sup>th</sup> Congress (S.Res. 478) for certain staff affected by a majority transition in that chamber.

<sup>25</sup> H.Res. 35, 104<sup>th</sup> Congress, adopted January 17, 1995. See Timothy J. Burger and Tim Curran, “All Staffers Now Eligible For Accrued Vacation Pay,” *Roll Call*, January 12, 1995; and Juliet Eilperin, “In Switch, GOP to Grant Leave For Fired Personal Staff of 103<sup>rd</sup>,” *Roll Call*, January 16, 1995.

<sup>26</sup> See CRS Report RL34553, *Closing a Congressional Office: Overview and Guide to House and Senate Practices*, by (continued...)

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.

The provision of benefits for staff leaving House service became an issue of interest in the 1994-1995 partisan changeover. Topics discussed during 1994 included the impact of involuntary separation on those employees near 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>27</sup> It does not appear that similar issues arose in the 109<sup>th</sup> Congress, due in part to the practices established following the 1995 transition.

## **Administrative Staff**

Each of the House Officers and officials employs a cadre of support staff. Overall figures or direction for the offices may be established by leadership or other committees, including those voiced by the House Appropriations Committee Subcommittee on Legislative Branch and the Committee on House Administration. 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>28</sup> Any change in partisan control could potentially have an impact on staff of the administrative offices, although the effects may be more significant for some staff than others.<sup>29</sup>

## **Committees**

A majority transition could have significant effects on committee organization and operations. The Rules of the House for the 111<sup>th</sup> Congress, 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>30</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:

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(...continued)

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<sup>27</sup> Juliet Eilperin, “In Switch, GOP to Grant Leave For Fired Personal Staff of 103<sup>rd</sup>,” *Roll Call*, January 16, 1995; Editorials, “A Welcome Flip-Flop,” *Roll Call*, January 16, 1995; Timothy J. Burger and Tim Curran, “All Staffers Now Eligible For Accrued Vacation Pay,” *Roll Call*, January 12, 1995; Gabriel Kahn, “GOP Retreats on Vacation Pay For Administrative Staff Only,” *Roll Call*, December 8, 1994.

<sup>28</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>29</sup> See discussion on staffing issues in previous transitions in the “Introduction” section.

<sup>30</sup> See CRS Report 97-357, *House Rules Affecting Committees*, by Christopher M. Davis.

- negotiation of individual committee sizes and ratios between party leaders;
- assignment of chair, ranking minority members and other Members to committees by party caucus or conference, according to the polices of those entities;<sup>31</sup> and
- adoption of a resolution authorizing the funding of expenses of committees several weeks after the House convenes.<sup>32</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>33</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.

## **Committee 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>34</sup>

At the beginning of the 110<sup>th</sup> Congress, the new majority made some changes to committees, including renaming some panels while keeping their jurisdictions essentially unchanged. In addition, the House Appropriations Committee Subcommittee on the Legislative Branch, which had been eliminated in a 2005 reorganization, was reestablished.

## **Committee 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>35</sup> In addition to the relocation of Member offices typical in any new Congress, the majority transition necessitated the relocation of leadership and 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 could be met from funds allocated to the CAO or Architect of the Capitol

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<sup>31</sup> See CRS Report 98-367, *House Committees: Assignment Process*, by Judy Schneider.

<sup>32</sup> See CRS Report R40204, *House Committee Funding, 111<sup>th</sup> Congress*, by R. Eric Petersen, House Committee Funding, 111<sup>th</sup> Congress, by R. Eric Petersen; and CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104<sup>th</sup>-110<sup>th</sup> Congresses*, by R. Eric Petersen.

<sup>33</sup> See “Staffing” section, above.

<sup>34</sup> See CRS Report 95-187, *Committee System: Rules Changes in the House, 104<sup>th</sup> Congress*, by Judy Schneider.

<sup>35</sup> Alice A. Love, “The Mother of all Moves: Price Tag for Massive Office Shuffle is \$1.4 Million,” *Roll Call*, November 14, 1994.

(AOC). 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.

## **Archiving of Paper and Electronic Records**

House Rule VII governs the archiving and availability of certain records of the House, and requires the chair of each committee to transfer any noncurrent committee records to the Clerk for transfer to the National Archives and Records Administration.<sup>36</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>37</sup> Custody of committee records resides with the House. During a majority transition, an incoming majority might establish 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>38</sup> Similar requests were reportedly made by incoming majority transition leaders and prospective committee chairs.<sup>39</sup> No official information regarding the effectiveness of committee record preservation efforts during the 110<sup>th</sup> Congress majority transition was identified.

## **Interim Funding, 112<sup>th</sup> Congress**

The expenses of House committees, other than the Appropriations Committee, for the 111<sup>th</sup> Congress were authorized under the budget authority of H.Res. 279. Under House Rule X, clause 7, committees have interim funding authority through March 31 of the first session of a new Congress, and some funds authorized in H.Res. 279 will be available to meet committee expenses through March 31, 2011. During the period between the convening of the House for the 112<sup>th</sup> Congress and the election of committee chairs, House Rule X, clause 7(e), provides that payments of committee expenses “shall be made on vouchers signed by the ranking member of the committee as it was constituted at the expiration of the preceding Congress who is a member of the majority party in the present Congress.”

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<sup>36</sup> House Rule VII. Also, see U.S. Congress, House, Office of the Clerk, *Records Management Manual for Committees*, Publication C-1 (Washington: October 2004).

<sup>37</sup> House Rule XI(e)(1)(A).

<sup>38</sup> Timothy J. Burger, “Gingrich Asks Dems Not to Destroy Papers,” *Roll Call*, November 10, 1994; and Timothy J. Burger, “Thomas Backs off HIS Lockup,” *Roll Call*, November 21, 1994.

<sup>39</sup> Jennifer Senior, “Shredder Cuts Committee Paperwork Burden,” *The Hill*, March 29, 1995.

## 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.

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>40</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, supplies, and district office facilities<sup>41</sup> are provided through funds appropriated annually, and allocated to Representatives according to the formulas established under the Member's Representational Allowance.<sup>42</sup> The precise duties and tasks carried out in a Member office vary with the Member's personal preferences, which may be informed by seniority, committee assignment, policy focus, district or state priorities, institutional leadership, and electoral considerations.<sup>43</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>44</sup>

## Member Office Assignment Lottery Process

Prior to the beginning of a new Congress, Member office space is assigned by lottery. Costs associated with the move are charged to the individual 2010 Members' Representational Allowance (MRA) accounts. The lottery is conducted according to a policy first addressed in an act approved on May 28, 1908.<sup>45</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>46</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 offices by

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<sup>40</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>41</sup> Washington, DC office facilities are provided with funds appropriated to the Architect of the Capitol.

<sup>42</sup> See CRS Report RL30064, *Congressional Salaries and Allowances*, by Ida A. Brudnick; and CRS Report R40962, *Members' Representational Allowance: History and Usage*, by Ida A. Brudnick.

<sup>43</sup> See CRS Report RL33686, *Roles and Duties of a Member of Congress*, by R. Eric Petersen.

<sup>44</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>45</sup> May 28, 1908, 35 Stat. 578; 2 U.S.C. 2004 et seq.

<sup>46</sup> March 3, 1921, ch. 124, 41 Stat. 1291.

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>47</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>48</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>49</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*.<sup>50</sup>

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<sup>47</sup> P.L. 103-69, Sec. 312, August 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, October 7, 1996, contained in letter from Superintendent of House Office Buildings Robert R. Miley to Members on November 7, 1996.

<sup>48</sup> P.L. 104-53, Sec. 307, November 19, 1995, 109 Stat 537.

<sup>49</sup> Order No. 41, which is reprinted within the notes for 2 U.S.C. 57.

<sup>50</sup> The Statement of Disbursement volumes covering expenditures since July 1, 2009, are available at <http://disbursements.house.gov/>.