



# The First Day of a New Congress: A Guide to Proceedings on the Senate Floor

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## Summary

The Senate follows a well-established routine on the opening day of a new Congress. The proceedings include swearing in members elected in the most recent general election, the adoption of administrative resolutions, the adoption of standing orders for the new Congress, and, possibly, the election of a new President pro tempore and Senate officers. Other first-day activities might occur as a consequence of specific circumstances, such as providing for a joint session with the House to count electoral votes after a presidential election. Once these organizational proceedings are completed, the Senate may turn to legislative or executive business or other activities.

The Senate committee assignment process begins prior to the convening of a new Congress and may continue after the beginning days of a new Congress. At some time, usually other than opening day, the Senate adopts committee assignment resolutions. Changes in Senate party leadership take place in respective party conference meetings prior to opening day. There are no floor votes to ratify these changes.

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## The Senate Convenes

The Twentieth Amendment to the Constitution directs that a new Congress convene at noon on January 3 in each odd-numbered year, unless the preceding Congress has passed a law designating a different day for the new Congress's convening.

The 111<sup>th</sup> Congress convened January 6, 2009.<sup>1</sup> In recent years, it has been the exception rather than the rule for a new Congress to begin on January 3. In addition to the 111<sup>th</sup> Congress, six out of the preceding seven Congresses began on another date than January 3—

- the 104<sup>th</sup> Congress ( January 4, 1995),
- the 105<sup>th</sup> Congress (January 7, 1997),
- the 106<sup>th</sup> Congress (January 6, 1999),
- the 108<sup>th</sup> Congress (January 7, 2003),
- the 109<sup>th</sup> Congress (January 4, 2005), and
- the 110<sup>th</sup> Congress (January 4, 2007).

The 107<sup>th</sup> Congress was only one of these seven to begin on January 3, convening January 3, 2001.

The Vice President normally presides when the Senate first convenes; the Senate chaplain offers a prayer. The Vice President then announces the receipt of the certificates and credentials of election of Senators who were newly elected or re-elected in the most recent general election. The reading of these documents is waived by unanimous consent, and they are subsequently printed in full in the *Congressional Record*.<sup>2</sup>

## Oath of Office

The first order of business in a new Senate is the swearing-in of Senators elected or re-elected in the most recent general election. Before this action is taken, however, the majority leader might provide a brief history of the oath of office, or the two leaders might give brief welcoming remarks.<sup>3</sup> If there is a contested Senate election, the leadership might provide a brief status report and plan for its resolution.<sup>4</sup>

The Vice President then calls Senators who were elected to the front of the chamber, in alphabetical order in groups of four, to take the oath and to also “subscribe to the oath” in the

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<sup>1</sup> P.L. 110-430, enacted October 15, 2008.

<sup>2</sup> See, for example, The Vice President, “Certificates of Election and Credentials,” *Congressional Record*, daily edition, vol. 155, January 6, 2009, pp. S1-S4.

<sup>3</sup> See, for example, Sen. Trent Lott, “The Oath We Take,” *Congressional Record*, vol. 143, January 7, 1997, pp. 4-5.

<sup>4</sup> See, for example, Sen. Trent Lott, “Louisiana Election Contest,” *Congressional Record*, vol. 143, January 7, 1997, p. 5.

official oath book.<sup>5</sup> Each Senator is usually accompanied by the other Senator from his or her state, the Senator he or she is replacing, or a former Senator.<sup>6</sup>

The oath, which is the same for Representatives and executive and judicial appointees, is as follows:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

An oath is mandated by Article VI of the Constitution; its text is set by statute (5 U.S.C. 3331).<sup>7</sup>

When Senators take the oath, they raise their right hand to swear or affirm, repeating after the Vice President. Many hold a family Bible, a sacred text, or another object in their left hands.<sup>8</sup> These objects have included family heirlooms and other items meaningful to the individual Senator. Some Senators have held nothing, and nothing is required. There is no requirement that a Bible or anything else be used when the oath is taken.

When the Vice President and individual Senators subsequently re-enact the swearing-in in the Old Senate Chamber with the Senator's family, each Senator might hold a Bible, another item, or nothing in his or her left hand. Although photography is not permitted on the Senate floor, photographers are present for these ceremonial swearing-ins.

## Notification to the President and the House

After Senators elected in the most recent general election have been sworn in, the Vice President recognizes the majority leader, who notes the absence of a quorum. The Vice President directs the Senate clerk to call the roll, and all Senators normally are present to respond.<sup>9</sup>

The majority leader offers resolutions that the President (S.Res. 1, 111<sup>th</sup> Congress) and the House (S.Res. 2, 111<sup>th</sup> Congress) be formally notified that a quorum of the Senate is assembled and ready to proceed to business. Subsequently, pursuant to the resolution providing for notification of the President, the House and Senate leadership telephone the President with the news that a quorum of each house of Congress has assembled and is prepared to begin its work.

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<sup>5</sup> Each Senator is allowed to keep the pen he or she uses to sign the historic oath book, which contains the signatures of all U.S. Senators. A Senator signs this book each time he or she takes the oath of office.

<sup>6</sup> Senate Historian Richard A. Baker, *Traditions*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Pub. 110-11 (Washington, DC: Senate Office of Printing and Document Services, 2007), pp. 3-4, available at <http://www.senate.gov/reference/resources/pdf/Traditions.pdf>. (Hereafter *Traditions*.)

<sup>7</sup> The President's oath is set forth in the Constitution (U.S. Const. art. II, § 1, cl. 7).

<sup>8</sup> *Traditions*, pp. 3-4.

<sup>9</sup> A quorum is the number of members required to be present in each house for the transaction of business. Under the Constitution (U.S. Const. art. I, sec. 5, cl. 1), a quorum in each house is a majority of its members: 51 in the Senate and 218 in the House. For an explanation of quorum requirements in the Senate, see CRS Report 98-775, *Quorum Requirements in the Senate: Committee and Chamber*, by Betsy Palmer.

## Election of the President Pro Tempore

As provided by the Constitution, the President pro tempore is elected by the Senate to preside during the absence of the Vice President.<sup>10</sup> Referred to as the President pro tem, this majority-party Senator usually has his party's longest continuous Senate service.<sup>11</sup>

When there is a change in party control of the Senate, or when a vacancy in the office of President pro tempore occurs, a new President pro tempore is elected by resolution and then escorted to the front of the chamber to be sworn in by the Vice President.<sup>12</sup> Afterwards, the Senate adopts resolutions to notify the House and the President of the election of the President pro tempore.

In the 111<sup>th</sup> Congress, the President pro tempore was Senator Robert C. Byrd, who served until his death on June 28, 2010. Senator Daniel K. Inouye, the Senate's most senior Democrat, was elected to fill this position and sworn in later that day (S.Res. 567, 111<sup>th</sup> Congress). The Senate subsequently adopted resolutions to notify the House (S.Res. 568, 111<sup>th</sup> Congress) and President (S.Res. 569, 111<sup>th</sup> Congress) of the election.

## Daily Meeting Time of the Senate

The Senate establishes its daily hour of meeting by a resolution, which must be renewed each Congress. This resolution is usually offered by the majority leader.<sup>13</sup>

## Election of Officers

Since the Senate is a continuing body, its officers—secretary of the Senate, sergeant at arms and doorkeeper, and chaplain—do not need to be reelected on the opening day of a new Congress. However, when there is a change in party control or a vacancy at the beginning of a Congress, any new officers are approved by the full Senate. That occurred on the opening day of the 110<sup>th</sup> Congress when a new secretary of the Senate and a new sergeant at arms and doorkeeper were elected.<sup>14</sup> The Senate also adopts resolutions to notify the President and the House of the election of new officers.

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<sup>10</sup> U.S. Const. art. I, § 3, cl. 5. The Vice President, named in clause 4 as the President of the Senate, usually presides only on opening day, during ceremonial occasions, and when needed to cast a tie-breaking vote.

<sup>11</sup> The President pro tempore holds his office during his Senate term and is not reelected at the beginning of a new Congress. For information on this office, see CRS Report RL30960, *The President Pro Tempore of the Senate: History and Authority of the Office*, by Christopher M. Davis.

<sup>12</sup> See, for example, "Electing Senator Daniel K. Inouye President Pro Tempore," *Congressional Record*, daily edition, vol. 156, June 28, 2010, p. S5465.

<sup>13</sup> In the 111<sup>th</sup> Congress, S.Res. 3, agreed to in the Senate January 6, 2009.

<sup>14</sup> S.Res. 8 and S.Res. 11 (110<sup>th</sup> Cong.). See "Electing Nancy Erickson as the Secretary of the Senate," and "Electing Terrance W. Gainer as the Sergeant At Arms and Doorkeeper," *Congressional Record*, daily edition, vol. 153, January 4, 2007, pp. S6-S7; and CRS Report 98-418, *Senate Administrative Officers and Officials*, by Lorraine H. Tong.

The respective party secretaries might be replaced at the beginning of a Congress. They are approved by their party conferences and then elected by the Senate.

Any changes in Senate party leadership take place in respective party conference meetings prior to opening day. There are no floor votes to ratify these changes.<sup>15</sup>

## Other First-Day Floor Activities

Other organizational business is taken up on the Senate floor on the first day. At the beginning of the 111<sup>th</sup> Congress, as at the beginning of preceding Congresses, the Senate adopted en bloc by unanimous consent 12 standing orders for the duration of the 111<sup>th</sup> Congress.<sup>16</sup> These standing orders addressed—

- meetings of the Select Committee on Ethics;
- limiting roll-call votes to 15 minutes;
- authorizing Senators to present reports at the desk;
- allowing 10 minutes daily to each party leader (so-called leader time);
- granting floor privileges to the House parliamentarians;
- forgoing printing of conference reports and joint explanatory statements when they are printed as House reports;
- allowing the Appropriations Committee to file reports during an adjournment or recess of the Senate;
- authorizing the secretary of the Senate to make technical and clerical corrections to engrossments of Senate-passed bills, resolutions, and amendments;
- during an adjournment or recess of the Senate, authorizing the secretary of the Senate to receive presidential messages and, except for House legislation, House messages, and authorizing the President pro tempore to sign enrollments;
- allowing Senators to designate two staff members for floor access during the Senate's consideration of specific matters;
- allowing treaties and nominations to be referred when received; and
- permitting Senators to introduce bills and resolutions by taking them to the desk.

Article I, Section 2 of the Constitution provides for a system of staggered six-year terms for Senators, one-third of their terms expiring at the conclusion of each Congress. The Senate has

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<sup>15</sup> Party leadership changes can also occur during a Congress. For information on organizational meetings held prior to the formal start of a new Congress, see CRS Report RS21339, *Congress's Early Organization Meetings*, by Judy Schneider.

<sup>16</sup> Sen. Harry Reid, "Unanimous Consent Agreement," *Congressional Record*, daily edition, vol. 155, January 6, 2009, p. S6.

interpreted the constitutional arrangement to mean that it is a continuing body and does not have to organize itself with each new Congress, as does the House of Representatives.<sup>17</sup>

The Democratic and Republican leaders might address the Senate, possibly describing highlights of the legislative schedule ahead or discussing other pertinent issues.<sup>18</sup> Sometimes on the first day, the Senate might also adopt a resolution providing for a January adjournment or for the joint session at which Congress will receive the President's State of the Union address.

Other first-day activities might occur as a consequence of specific circumstances. For example, following a presidential election, the Senate must adopt a resolution to meet in joint session with the House to count the electoral votes for the President and Vice President,<sup>19</sup> continue the Joint Congressional Committee on Inaugural Ceremonies, and permit use of the Capitol for inaugural activities.<sup>20</sup> On the first day of the 106<sup>th</sup> Congress, there were several announcements and a discussion related to the pending impeachment trial of President Bill Clinton.<sup>21</sup>

After the Senate has completed these organizational proceedings, it may turn to other activities, such as the introduction and reference of legislation,<sup>22</sup> speeches, and appointments. In addition, following the sine die adjournment of the preceding Congress, the secretary of the Senate will have received, in the Senate's behalf, messages from the House of Representatives, the President, and executive departments. On the first day of a new Congress, these messages will be disposed of, normally by reference to the relevant committee.

## Committee Organization

The committee assignment process begins prior to the convening of a new Congress, and mostly within the party groups—the Democratic and Republican Conferences.<sup>23</sup> The only action visible on the chamber floor is the adoption of resolutions assigning Senators from each party to committees agreed upon by the respective party conference. The adoption of both parties' resolutions is routine.<sup>24</sup>

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<sup>17</sup> Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure*, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess., S.Doc. 101-28 (Washington, DC: GPO, 1992), pp. 1220-1224.

<sup>18</sup> For the opening-day remarks of the leaders of the 111<sup>th</sup> Congress, see Sen. Harry Reid, "Welcome the 111<sup>th</sup> Congress," *Congressional Record*, daily edition, vol. 155, January 6, 2009, pp. S7-S8; and Sen. Mitch McConnell, "Opening of the 111<sup>th</sup> Congress," pp. S12-S14.

<sup>19</sup> See, for example, S.Con.Res. 1 (111<sup>th</sup> Cong.). See "Setting the Date of January 8, 2009, for the Counting of Electoral Votes," *Congressional Record*, daily edition, vol. 155, January 6, 2009, pp. S5-S6.

<sup>20</sup> See, for example, S.Con.Res. 2 (111<sup>th</sup> Cong.). See "Extending the Life of the Joint Congressional Committee on Inaugural Ceremonies," *Congressional Record*, daily edition, vol. 155, January 6, 2009, p. S6.

<sup>21</sup> Sen. Trent Lott, "The Public's Access to the Impeachment Proceedings," "Unanimous—Consent Agreement—Senate Access," and "Senate Agenda," *Congressional Record*, vol. 145, January 6, 1999, pp. S7-S11.

<sup>22</sup> In some Congresses, the Senate has decided to disallow the introduction of legislation until after the President's State of the Union address.

<sup>23</sup> For information on organizational meetings held prior to the formal start of a new Congress, see CRS Report RS21339, *Congress's Early Organization Meetings*, by Judy Schneider.

<sup>24</sup> See CRS Report RL30743, *Committee Assignment Process in the U.S. Senate: Democratic and Republican Party Procedures*, by Judy Schneider; and CRS Report 98-183, *Senate Committees: Categories and Rules for Committee Assignments*, by Judy Schneider.



Committee assignment resolutions are not normally considered on the opening day of a new Congress, but later in January. On the opening day of the 107<sup>th</sup> Congress, an assignment resolution was taken up to designate committee chairs, pending an agreement on the organization of the Senate under the special circumstance of 50 Democratic and 50 Republican Senators.<sup>25</sup>

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<sup>25</sup> Sen. Tom Daschle, “Senate Resolution 7—Designating the Chairmen of the Following Senate Committees,” *Congressional Record*, vol. 147, January 3, 2001, pp. 14-15.