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

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December 5, 2014

Congressional Research Service

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www.crs.gov

RL30725

Summary

Article 1, Section 2 of the Constitution sets a term of office of two years for all Members of the House. One House ends at the conclusion of each two-year Congress, and the newly elected Representatives must constitute a new House at the beginning of the next Congress. Consequently, the House must choose its Speaker and officers and adopt the chamber's rules of procedure every two years.

The Constitution mandates that Congress convene at noon on January 3, unless the preceding Congress by law designated a different day. P.L. 113-201 set January 6, 2015, as the convening date of the 114th Congress. Although no officers will have been elected when the House first convenes, officers from the previous Congress perform certain functions, such as conducting the election of the Speaker.

The House follows a well-established first-day routine. The proceedings include

- a prayer led by the chaplain and the Pledge of Allegiance led by the Clerk;
- a quorum call ordered by the Clerk;
- the election of the Speaker, ordered by the Clerk and conducted with the assistance of tellers;
- remarks by the Speaker-elect, followed by his or her swearing-in by the dean of the House;
- adoption of rules for the new Congress;
- announcement of the Speaker's policies on certain floor practices;
- the oath of office for the newly elected and re-elected Members, administered by the Speaker; and
- adoption of various administrative resolutions and unanimous consent agreements.

On opening day, the House often adopts resolutions assigning some or many of its Members to committees. This process regularly continues over several more weeks. The committee assignment process occurs primarily within the party groups—the Republican Conference and the Democratic Caucus. Other routine organizational business may also be taken up on the House floor on the first day, such as adoption of a resolution to allow a judge or a Member of Congress to administer the oath of office to one or more Members-elect who are absent.

Some resolutions on opening day are dependent on specific circumstances and do not occur at the beginning of each new Congress. At the outset of a new Congress following a presidential election, the House must adopt a resolution providing for the counting by the new Congress of electoral votes cast for President and Vice President.

This report will be updated after the convening of the 114th Congress. For an explanation of proceedings occurring on the first day in the Senate, see the companion report: CRS Report RS20722, *The First Day of a New Congress: A Guide to Proceedings on the Senate Floor*, by (name redacted) and (name redacted).

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Introduction

The House of Representatives follows a well-established routine on the opening day of a new Congress. The proceedings include electing and swearing in the Speaker, swearing in Members,¹ electing and swearing in House administrative officers, and adopting rules of procedure and various administrative resolutions. Resolutions assigning some or many Members to committees may also be adopted.

The House must take these actions at the beginning of each new Congress because it is not a continuing body. Article 1, Section 2 of the Constitution sets a term of office for Members of the House at two years. Thus, one House ends at the conclusion of each two-year Congress, and the newly elected Representatives must constitute a new House at the beginning of a new Congress.²

The House 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 by law designated a different day for the new Congress's convening. On November 20, 2014, the 113th Congress completed action on H.J.Res. 129, setting the convening date for the 114th Congress as January 6, 2015. The joint resolution was signed into law by President Obama on December 4 (P.L. 113-201).³

The 113th Congress convened January 3, 2013. In recent years, however, it has been the exception rather than the rule for a new Congress to begin on January 3. Eight of the past 10 Congresses began on a date other than January 3—

- 104th Congress (January 4, 1995),
- 105th Congress (January 7, 1997),
- 106th Congress (January 6, 1999),
- 108th Congress (January 7, 2003),
- 109th Congress (January 4, 2005),
- 110th Congress (January 4, 2007),
- 111th Congress (January 6, 2009), and
- 112th Congress (January 5, 2011).

¹ See CRS Report R41946, *Qualifications of Members of Congress*, by (name redacted).

² For information on the convening of the House, see Wm. Holmes Brown, Charles W. Johnson, and John V. Sullivan, "Assembly of Congress," in *House Practice, A Guide to the Rules, Precedents, and Procedures of the House of Representatives* (Washington: GPO, 2011), pp. 153-161. (Hereinafter, *House Practice*.) 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 (name redacted).

³ No equivalent law was enacted to set the convening date for the 113th Congress, which convened in 2013 on the constitutionally anticipated date of January 3. Earlier, P.L. 111-289, enacted November 30, 2010, set the date of January 5, 2011, for the 112th Congress to convene.

In addition to the 113th Congress, the 107th Congress was the only one of these 10 to begin on January 3, convening January 3, 2001.

Although no officers of the House will have been elected when the House first convenes, officers from the previous Congress perform certain functions.⁴ The previous Clerk of the House calls the House to order and presides over the chamber until the Speaker is elected and sworn in. In the absence of the Clerk, the Sergeant at Arms performs this duty.⁵

After the Clerk calls the Representatives-elect to order, the chaplain offers a prayer. The Clerk leads the Members-elect and their guests in reciting the Pledge of Allegiance. The Clerk then directs a reading clerk to call the roll of all Members-elect to establish that a quorum is present.⁶ In current practice, the roll is not actually called by a clerk; rather, the Members-elect record their presence by inserting their official voting cards (obtained prior to or on opening day) in the chamber's electronic voting machines. Once the call of the roll is completed, a majority having registered their names, a quorum (218) is indicated. This action fulfills the requirements of Article I, Section 5 of the Constitution that a quorum be present to conduct business.

The Clerk then announces the election of the Resident Commissioner from Puerto Rico (when applicable since the Resident Commissioner's term is four years) and of the Delegates—one person from the District of Columbia and one person from each of the territories of Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa.⁷ The Clerk also reports any deaths or resignations since the election.⁸

A quorum being present, the first order of official business is the election of the Speaker of the House of Representatives.⁹

⁴ CRS Report 98-396, *Guide to Individuals Seated on the House Dais*, by (name redacted).

⁵ See House Rule II, cl. 2, in *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Thirteenth Congress*, prepared by Thomas J. Wickham, H. Doc. 112-161, 112th Cong., 2nd sess. (Washington: GPO, 2013). (Hereinafter, *House Rules and Manual*.)

⁶ "All Members-elect whose credentials have been received by the Clerk are included in the first roll call on opening day to establish a quorum." Delegates-elect and the Resident Commissioner, however, are not included in this roll call. See "Status and Rights of Members-elect" in *House Practice*, p. 157. See also CRS Report 98-870, *Quorum Requirements in the House: Committee and Chamber*, by (name redacted).

⁷ By law, the term of service of Delegates is also two years, but the term of service of the Resident Commissioner is four years. See also CRS Report R40555, *Delegates to the U.S. Congress: History and Current Status*, by (name redacted).

⁸ At the beginning of the 109th Congress, for example, the Clerk announced the death of Rep. Robert Matsui of California since the last regular election for Reps. The Clerk [Jeffrey J. Trandahl], "Announcement by the Clerk," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 37. In the 107th Congress, the Clerk announced the death of Rep. Julian Dixon of California since the last regular election for Reps. The Clerk [Jeffrey J. Trandahl], "Announcement by the Clerk," *Congressional Record*, vol. 147, part 1 (January 3, 2001), p. 20.

In the 111th Congress, the Clerk announced receipt of a letter of resignation since the 2008 election from Rep.-elect Rahm Emanuel, who had been selected by President-elect Obama as his White House chief of staff. The Clerk [Lorraine C. Miller], "Resignation from the House of Representatives," *Congressional Record*, vol. 155, part 1 (January 6, 2009), p. 2. In the 106th Congress, the Clerk announced that he had received a letter from Rep.-elect Newt Gingrich, who stated that he would not seek reelection as Speaker of the House or take his seat as a Member from the Sixth District of Georgia. The Clerk [Jeffrey J. Trandahl], "Resignation As Member of the House of Representatives," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 42.

⁹ Prior to conducting the election of the Speaker, the retiring Clerk of the House addressed the chamber on opening day in 1995. See "Farewell Remarks of the Honorable Donald K. Anderson," *Congressional Record*, vol. 141, part 1 (January 4, 2001), p. 440.

Election of the Speaker¹⁰

The candidates for Speaker are nominated from the floor by the leaders of their respective parties. Traditionally, there is one candidate from the majority party and one from the minority party, selected by the Republican Conference and the Democratic Caucus at their early organizational meetings.¹¹ Debate on the nomination of candidates for Speaker is allowed but not customary.¹² Instead, the nominations are followed immediately by a viva voce roll-call vote, that is, a vote in which the Members-elect respond orally to the calling of their names. In this vote, the Members-elect call out the last name of their choice for Speaker when their names are called by a reading clerk. The Clerk appoints Members-elect to serve as majority and minority tellers, usually two each, to ascertain the vote.¹³ The majority party is able to assure the election of its candidate because the vote is almost exclusively along party lines.¹⁴ The candidates themselves, however, often vote “present” or do not vote.¹⁵

The following excerpt is from the proceedings for the election of the Speaker in the 113th Congress.¹⁶

ELECTION OF SPEAKER

The CLERK. Pursuant to law and precedent, the next order of business is the election of the Speaker of the House of Representatives for the 113th Congress. Nominations are now in order.

¹⁰ See CRS Report RL30857, *Speakers of the House: Elections, 1913-2013*, by (name redacted) and (name redacted). See also CRS Report 97-780, *The Speaker of the House: House Officer, Party Leader, and Representative*, by (name redacted).

¹¹ Although the Speaker has always been a Member of the House, this is not a constitutional requirement. In the 113th Congress, 10 individuals in addition to the party nominees received votes for Speaker, with 1 receiving 3 votes, 2 receiving 2 votes, and 7 receiving 1 vote each; 3 of the other individuals receiving votes were not Reps.-elect. In the 112th Congress, 7 other Members-elect received votes for Speaker, with 5 receiving 1 vote each, 1 receiving 2 votes, and 1 receiving 11 votes. All votes cast in the 110th and 111th Congresses were for the party nominees. In the 107th, 108th, and 109th Congresses, there was one other Member-elect in each Congress who received a vote for Speaker. All votes cast in the 106th Congress were for the party nominees. At the commencement of the 105th Congress, two former Members and a Member-elect, in addition to the two party nominees, received votes; the former Members each received a vote and the Member-elect received 2 votes. Some Reps. also vote present or do not vote in the election of a Speaker.

¹² At the commencement of the 105th Congress, the chair of the Democratic Caucus rose to “a question of the highest constitutional privilege” to offer a resolution calling for the postponement of the election of the Speaker until the completion of a pending investigation. His resolution proposed the election of an interim Speaker, but was ruled out of order by the Clerk. The appeal of the Clerk’s ruling was tabled by vote of the House. See Rep. Vic Fazio, *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 115-116.

¹³ Tellers are Members or clerks who count, or record and count, votes cast. See “Election of the Speaker,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H3.

¹⁴ The Speaker is elected by a majority, not a plurality, of Members-elect. See *House Rules and Manual*, §27, p. 13. Independent Members typically vote for the candidate of the party with which they have chosen to caucus.

¹⁵ In the 113th Congress, Rep.-elect Nancy Pelosi voted for herself, while Rep.-elect John Boehner did not vote. (Ms. Pelosi had been chosen as minority leader of her party; Mr. Boehner had served as Speaker in the 112th Congress.) See “Election of the Speaker,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H2-H4. In the 110th Congress, both party nominees for Speaker voted for themselves. See “Election of Speaker,” *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 3.

¹⁶ See “Election of the Speaker,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H2-H4.

The Clerk now recognizes the gentlewoman from Washington (Mrs. McMORRIS RODGERS)

Mrs. McMORRIS ROGERS. ... So it is with great optimism and hope for the great work that we can accomplish together that, as chair of the Republican Conference—on a unanimous vote of the conference—I present for election to the Office of the Speaker of the House of Representatives for the 113th Congress the name of the Honorable JOHN A. BOEHNER.

The Clerk now recognizes the gentleman from California (Mr. BECERRA).

Mr. BECERRA. ... I am tasked, as chairman of the Democratic Caucus, through the vote of that caucus, to present for election to the Office of Speaker of the House of Representatives to the 113th Congress the name of the Right Honorable NANCY PELOSI, a Representative for the people, duly elected from the State of California.

The CLERK. The names of the Honorable JOHN A. BOEHNER, a Representative-elect from the State of Ohio, and the Honorable NANCY PELOSI, a Representative-elect from the State of California, have been placed in nomination.

Are there further nominations?

There being no further nominations, the Clerk appoints the following tellers:

The gentlewoman from Michigan (Mrs. MILLER); the gentleman from Pennsylvania (Mr. BRADY); the gentlewoman from Ohio (Ms. KAPTUR); and the gentlewoman from Florida (Ms. ROS-LEHTINEN).

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choosing.

The Reading Clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.¹⁷

The CLERK. The tellers agree in their tallies that the total number of votes cast is 426, of which the Honorable JOHN A. BOEHNER of the State of Ohio has received 220 votes, and the Honorable NANCY PELOSI of the State of California has received 192 votes, the Honorable RAÚL LABRADOR of the State of Idaho has received 1, the Honorable JOHN LEWIS of the State of Georgia has received 1, the Honorable ERIC CANTOR of the State of Virginia has received 3, the Honorable ALLEN WEST has received 2, Colin Powell has received 1, the Honorable JIM JORDAN of the State of Ohio has received 1, David Walker has received 1, the Honorable JIM COOPER of the State of Tennessee has received 2, the Honorable JUSTIN AMASH of the State of Michigan has received 1, the Honorable JOHN DINGELL of the State of Michigan has received 1, with 1 recorded as “present.”

¹⁷ Prior to the voting for Speaker in the 106th Congress, a parliamentary inquiry was made by the Resident Commissioner from Puerto Rico and another Member-elect about the Delegates in the House being allowed to cast ballots for Speaker. The Clerk announced, however, that “Representatives-elect are the only individuals qualified to vote in the election of the Speaker.” See “Election of Speaker,” *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 42-43.

Therefore, the Honorable JOHN A. BOEHNER of the State of Ohio, having received the majority of the votes cast, is duly elected Speaker of the House of Representatives for the 113th Congress.

Swearing-in of the Speaker

After election, the Clerk appoints a bipartisan committee to escort the Speaker-elect to the Speaker's chair on the dais. The Speaker-elect is escorted by leaders of both parties and, often, by Representatives-elect from his or her home state. He or she is introduced to the chamber by the minority leader, who first delivers a short statement from the chair. The Speaker often responds with a statement of his or her own and then takes the oath of office.¹⁸ By precedent, the dean of the House, the most senior (longest-serving) Member, regardless of party, administers the oath to the Speaker.¹⁹ That oath is identical to that of the other Members. (See "Oath of Office.")

The Speaker during the day's proceedings delivers a letter to the Clerk listing Members in the order in which they may act as the Speaker pro tempore, should a vacancy occur in the office, until a new Speaker is elected.²⁰ The Speaker also appoints Members who may sign enrolled bills and joint resolutions.²¹

Oath of Office for Members-Elect

After taking the oath, the Speaker administers the oath to all Members of the House, en masse, including the nonvoting Delegates and Resident Commissioner. The Speaker directs the Representatives-elect to rise and raise their right hands. The oath, which follows, is stated in the form of a question, to which the newly elected Members respond in the affirmative:

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

An oath is mandated by Article VI of the Constitution, and its text is set by statute (5 U.S.C. 3331).²² As the Members-elect raise their right hands, they are not required to hold anything in

¹⁸ In the 106th Congress, the Speaker-elect broke with tradition and delivered his remarks from the floor of the House rather than the dais. See Rep. Dennis Hastert, "Election of the Speaker," *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 44-45.

¹⁹ Rep. John Dingell (D-MI) was the dean of the House in the 113th Congress. (On February 24, 2014, Mr. Dingell announced that he would not seek election to the 114th Congress, commencing January 3, 2015.) See "Election of the Speaker," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H4-H5.

²⁰ See "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H27.

²¹ See "Appointment of Members to Act as Speaker Pro Tempore to Sign Enrolled Bills and Joint Resolutions during the 113th Congress," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H27; and House Rule I, cl. 8(b)(3).

²² The President's oath is set forth in the Constitution (U.S. Const. art. II, §1, cl. 7).

their left hands. Many have held a family Bible or another sacred text in their left hands, but there is no requirement that anything be held when the oath is taken.

The same is true for Representatives who re-enact the event with their families and the Speaker in the Speaker's office after the formal ceremony. Many Members choose to hold something meaningful in their left hands. These objects have often been, but are not limited to, a family heirloom or something else of special significance. Nothing, however, is required. It is up to the Member to determine what, if anything, he or she holds.²³ While photography is not permitted of the swearing-in on the House floor, ceremonial swearing-ins may be photographed or recorded.

Members who were not present when all Members were sworn in might take the oath in the House chamber later on opening day.²⁴ Occasionally, the swearing-in of a Member-elect is delayed because of illness or other circumstances. When that happens, the Member-elect is sworn in at a later date in the House chamber or elsewhere by someone designated by the Speaker. The oath of office may be administered by another Member or by a judge. The location has been at sites in Washington, DC, other than the Capitol and in other parts of the country.²⁵

If the swearing-in of a Member is challenged, the Speaker, pursuant to House precedents, will ask the Member-elect to remain seated while the others are sworn in. The House then determines the disposition of the challenge.²⁶

²³ In the 110th Congress, for example, Rep.-elect Keith Ellison of Minnesota, the first Muslim elected to Congress, used a Quran when he re-enacted his swearing-in with the Speaker. See "First Muslim Lawmaker Takes Oath With Quran," *USA Today*, January 5, 2007, p. 3; and Gail Feinberg and the Library of Congress, "Members Borrow Historic Books from the Library," *The Gazette*, vol. 18, January 12, 2007, pp. 3-5. In 2008, Rep.-elect André Carson of Indiana, the second Muslim elected to Congress, used a copy of the *House Rules and Manual* for his ceremonial swearing-in after he was sworn in following election to a vacant seat in the 110th Congress. See Emily Heil and Anna Palmer, "Carson's Jeffersonian Moment," *Roll Call*, March 17, 2008, p. 19.

²⁴ Once a Member-elect has been sworn in, he or she may vote on all subsequent questions. If a Member misses a vote on opening day or any other occasion, he or she might want to make known a position on the question. See "Personal Explanation," in *House Practice*, pp. 944-945.

²⁵ Regarding Members sworn in at other times and in other places, see, for example: In the 105th Congress, the swearing-ins of Rep.-elect Frank Tejeda of Texas and Rep.-elect Julia Carson of Indiana were delayed because of illness. Rep. Tejeda was sworn in January 8, 1997, and Rep. Carson on January 9, 1997. Both were sworn in by federal judges outside Washington, DC. Rep. Richard Gephardt, "Authorizing the Speaker or His Deputy to Administer the Oath to the Honorable Frank Tejeda and the Honorable Julia Carson," *Congressional Record*, vol. 143, part 1 (January 7, 1997), pp. 143-144. In the 106th Congress, two ill Members, Reps.-elect George Miller and Sam Farr, were sworn in at their California homes by judges on January 7, 1999, and January 8, 1999, respectively. Rep. Robert Menendez, "Authorizing the Speaker or His Deputy to Administer the Oath of Office to the Honorable George Miller and the Honorable Sam Farr of California," *Congressional Record*, vol. 145, part 1 (January 6, 1999), p. 246.

Regarding Members sworn in in the House chamber at other times than the day of convening, see, for example, the swearing-in of Reps.-elect Earl Blumenauer, John Lewis, and Lucille Royal-Allard. See "Swearing In of Members," *Congressional Record*, daily edition, vol. 159, January 14, 2013, p. H74; and "Oath of Office-Members, Resident Commissioner, and Delegates," January 14, 2013, p. H82.

In the 112th Congress, two Members were absent from the House chamber when Members were sworn in, but were in the Capitol complex. They were sworn in later on January 6. It was discovered that the Members had responded to various recorded quorum- and roll-calls before being so sworn and that they had taken other official actions as Members and that official actions were taken on their behalf before they were sworn. The House adopted a resolution vitiating their participation, correcting the *Congressional Record*, and validating actions that had been taken. See "Swearing in of Members," *Congressional Record*, daily edition, vol. 157, January 6, 2011, p. H76; H.Res. 27, agreed to in the House January 7, 2011; and "Relating to the Status of Certain Actions Taken by Members-Elect," *Congressional Record*, daily edition, vol. 157, January 7, 2011, pp. H118-H120.

²⁶ On January 3, 1985, the seating of Rep.-elect Richard McIntyre of the Eighth Congressional District of Indiana was (continued...)

Announcement of Party Leaders

After the Speaker administers the oath of office, he or she receives reports from the chairs of the two party organizations, the Republican Conference and the Democratic Caucus, who announce their parties' choice for majority leader and minority leader.

Mrs. McMORRIS RODGERS. Mr. Speaker, as chair of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as majority leader the gentleman from Virginia, the Honorable ERIC CANTOR.

Mr. BECERRA. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority leader the gentlewoman from California, the Honorable NANCY PELOSI.²⁷

The chairs then announce the names of those elected to serve as majority and minority whips.²⁸

Election of Officers

The House next turns to the election of its administrative officers: Clerk, Sergeant at Arms, Chief Administrative Officer, and Chaplain. A simple resolution nominating the slate of candidates is offered by the chair of the caucus or conference of the majority party. The minority party proposes its own roster of candidates as an amendment to the majority party's resolution. By tradition, neither the resolution nor the amendment is debated, although the slate can be divided with a separate vote on any or all officers.²⁹ Again, because of its numerical advantage, the

(...continued)

challenged. In that incident, the House adopted a resolution (H.Res. 1), declining to seat McIntyre and referring the challenge to the House Administration Committee for further examination. The Member-elect's opponent, Frank McCloskey, was ultimately seated. See "Election Contests and Disputes," in *House Practice*, pp. 481-486; and Rep. James Wright, "Referring Election of a Member from the Eighth Congressional District of Indiana to the Committee on House Administration," *Congressional Record*, vol. 131, part 1 (January 3, 1985), pp. 381-388.

In contrast, Rep.-elect Vern Buchanan of Florida's Thirteenth Congressional District was seated pending the outcome of a contested election. In response to a parliamentary inquiry before Members-elect were sworn, the Speaker stated, "The seating of this Member-elect is entirely without prejudice to the contest over the final right to that seat that is pending under the [Federal Contested Elections Act] and will be reviewed in the ordinary course in the Committee on House Administration." See "Swearing in of Members," *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 5. Similarly, Rep.-elect Loretta Sanchez was seated without prejudice to the House's ultimate determination of the winner of the election in the Forty-sixth District of California. See "Swearing In of Members," *Congressional Record*, vol. 143, part 1 (January 7, 1997), p. 120.

See also CRS Report 98-194, *Contested Election Cases in the House of Representatives: 1933 to 2011*, by (name redacted); and CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by (name redacted) and (name redacted).

²⁷ See "Majority Leader" and "Minority Leader," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H5. See also CRS Report RL30665, *The Role of the House Majority Leader: An Overview*, by (name redacted); and CRS Report RL30666, *The Role of the House Minority Leader: An Overview*, by (name redacted).

²⁸ See "Majority Whip" and "Minority Whip and Assistant Democratic Leader," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H5-H6. See also CRS Report RS20881, *Party Leaders in the House: Election, Duties, and Responsibilities*, by (name redacted).

²⁹ Traditionally, a Member asks for a division so that there will be separate vote on the chaplain; the minority does not include an alternative chaplain in its amendment. See "Electing Officers to the House of Representatives," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H6.

majority is able to defeat the minority substitute and to adopt the resolution naming its chosen candidates. The Speaker administers the oath to the newly elected officers.³⁰

Six staff of the minority party leadership are subsequently designated.³¹

Notification to the Senate and the President

The House considers simple resolutions to formally notify the Senate and the President that it has elected its leaders, is assembled, and is ready to receive messages from them. Subsequently, the majority and minority leaders as well as two Senators (usually the majority and minority leaders) telephone the President with the news that Congress is ready to begin its work. The Clerk of the House is also authorized by resolution to inform the President that the House has selected its Speaker and Clerk.³²

Adoption of House Rules of Procedure

The next order of business is the adoption of the rules of the House. Although the rules of one House do not carry over to the next House, a newly elected House typically approves its rules by adopting the rules of the previous Congress with specific amendments.³³ Traditionally, prior to the first day of a new Congress, majority and minority Rules Committee members and possibly other party groups have worked on any changes the majority or minority wish to implement in the House's standing rules.³⁴ With the majority party's numerical advantage, its rules package, as presented, prevails.³⁵

³⁰ Ibid. See also CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by (name redacted); CRS Report R41807, *House and Senate Chaplains: An Overview*, by (name redacted); CRS Report RS20544, *The Office of the Parliamentarian in the House and Senate*, by (name redacted); and CRS Report RS22890, *House Office of General Counsel*, by (name redacted).

³¹ See "Providing for the Designation of Certain Minority Employees," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H24.

³² See "To Inform the Senate That a Quorum of the House Has Assembled and of the Election of the Speaker of the House," "Authorizing the Speaker To Appoint a Committee To Notify the President of the Assembly of the Congress," and "Authorizing the Clerk To Inform the President of the Election of the Speaker and the Clerk," *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H6.

³³ For the 113th Congress rules resolution debate, see "Rules of the House," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H6-H22. In the 106th Congress, for the first time in over 100 years, the House recodified its rules. The majority and minority had worked together in the prior Congress on the recodification. The majority also offered several amendments to the recodified rules. See "Rules of the House," *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 47-235.

³⁴ See CRS Report RL30787, *Parliamentary Reference Sources: House of Representatives*, by (name redacted) and (name redacted); CRS Report 98-262, *House Rules Manual: Summary of Contents*, by (name redacted); and CRS Report 98-406, *Publications of the U.S. House of Representatives*, by (name redacted).

³⁵ Prior to debate on the 113th Congress rules resolution, DC Delegate Eleanor Holmes Norton made a motion to refer the resolution to a select committee to make a recommendation on Delegate voting in the Committee of the Whole. The motion was tabled. See Rep. Eleanor Holmes Norton, "Motion To Refer," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H9-H10.

The majority's proposed rules are offered in the form of a House simple resolution, most often numbered H.Res. 5.³⁶ Since there are at that time no existing House rules, the resolution is considered under "general parliamentary law," which the House interprets to include the rules in force in the preceding Congress.³⁷ Debate is normally limited to one hour, although the time might be extended by unanimous consent, and the majority party floor manager of the resolution traditionally yields half the debate time "for purposes of debate only" to the minority floor manager. Participants in the debate discuss the majority's proposal and any minority-party alternate proposal.³⁸

At the end of debate time, the majority manager moves the previous question. The majority party's numerical advantage assures the adoption of this motion. The effect is to force a nearly immediate vote on the question of final approval of the majority's own rules package. Adoption of the previous question motion ends debate and prevents the minority from actually offering its alternate rules package.³⁹ Nonetheless, the minority still has the ability to offer a motion to commit with instructions, that is, one more chance to offer an amendment to the majority's rules resolution. Only 10 minutes of debate, equally divided, is allowed but the House often forgoes this debate by unanimous consent. With its numerical majority, the majority party is able to prevail in defeating a motion to commit, if offered,⁴⁰ and, then, in adopting its rules resolution.⁴¹

Separate Orders and Other Components

In addition to providing for the adoption of the previous House's rules with specific amendments to those rules, a rules resolution may provide for additional House action or activities. Such provisions typically appear as the final sections of the rules resolution, may be extensive, and may be labeled as separate orders, additional orders, or even with a specific name. In the 113th

³⁶ On two occasions in the past two decades, the House has first adopted a special rule governing consideration of that Congress's rules resolution. In the 104th and 110th Congresses, these special rules were numbered H.Res. 5 and the rules resolution were numbered H.Res. 6. See also CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by (name redacted).

³⁷ For a summary of the procedures the House follows in the brief period of time it is in session prior to the formal adoption of its own rules, see "Assembly of Congress," in *House Practice*, pp. 153-161.

³⁸ The prospective chair of the Rules Committee, who manages debate for the majority, inserts an explanation of the proposed rules changes in the *Congressional Record*. See Rep. Pete Sessions, "H.Res. 5," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H12-H14. See also CRS Report RS22991, *Speaking on the House Floor: Gaining Time and Parliamentary Phraseology*, by (name redacted).

³⁹ If the minority has an amendment to the majority's rules resolution, the minority floor manager asks Members to defeat the previous question so that the minority may offer its amendment. In the 113th Congress, the minority's amendment did not seek to amend the proposed rules themselves but would have made in order the consideration of a constitutional amendment to overturn a Supreme Court decision on campaign finance. See Rep. Louise Slaughter, "An Amendment to H.Res. 5 Offered by Ms. Slaughter of New York," daily edition, vol. 159, January 3, 2013, p. H19. See also CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by (name redacted).

⁴⁰ See Rep. George Miller, "Motion to Commit," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H21-H22. The minority's proposed amendment to the rules resolution (instructions in the motion to commit) did not seek to amend the proposed House rules themselves but authorized the House to consider a bill on election administration intended to facilitate citizens' opportunities to vote in elections. See also CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by (name redacted).

⁴¹ For an explanation of House rules changes in the last two decades, see CRS Report RL33610, *A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress*, by (name redacted) and (name redacted); and CRS Report R42395, *A Retrospective of House Rules Changes Since the 110th Congress*, by (name redacted) and (name redacted).

Congress rules resolution, Section 3 was labeled Separate Orders; Section 4 was labeled Committees, Commissions, and House Offices; and Section 5 was labeled Additional Orders of Business.

The separate orders in Section 3 pertained to House rules (e.g., access to House exercise facilities by former Members who are registered lobbyists) and rules in rulemaking statutes (e.g., the Congressional Budget Act). The separate orders departed from or interpreted these rules in a specific manner for the duration of only the 113th Congress.⁴²

The provisions related to committees, commissions, and House offices in Section 4 covered a range of special authorities operational for only the 113th Congress. For example, provisions continued from the 112th Congress the Bipartisan Legal Advisory Group's intervention in the defense in the courts of the Defense of Marriage Act and the Oversight and Government Reform Committee's and the Office of General Counsel's status in legal actions related to an investigation of a gun-running investigation of the Justice Department.⁴³ Other provisions also continued the operation of four House simple resolutions, adopted in the 110th Congress, pertaining to the House Democracy Project, the Tom Lantos Human Rights Commission, the Office of Congressional Ethics, and the empaneling of investigative subcommittees by the House Ethics Committee.⁴⁴ The House needed to formally indicate that these resolutions were in effect since a simple resolution normally expires at the end of the Congress in which it is adopted.

An additional order in Section 5 provided for the reading of the Constitution in the House.⁴⁵ Another order allowed a motion to suspend the rules on Friday, January 4, 2013, so that the House could consider a flood insurance measure under that procedure; without this order, the motion could be made only on Mondays, Tuesdays, and Wednesdays.⁴⁶

Special Orders

The terms *special order* and *special rule* are used somewhat interchangeably.⁴⁷ In either case, it may make in order House consideration of a measure and establish the terms of the measure's debate and amendment, among other provisions. When the majority party wishes to begin moving quickly in a new Congress on legislation, it might include in the rules resolution special orders making in order the consideration of specified measures.

⁴² Other provisions as well as similar ones appeared in Section 3 of H.Res. 5 in the 112th Congress, and Section 3 of H.Res. 5 in the 111th Congress.

⁴³ In the 111th Congress, Section 4 of H.Res. 5 also continued authorities, in that instance for the Judiciary Committee and the Office of General Counsel related to an investigation of the firing of U.S. attorneys.

⁴⁴ Similar provisions pertaining to these four entities appeared in H.Res. 5 in the 112th Congress. In the 111th Congress, provisions in Section 4 also continued the existence of the Select Committee on Energy Independence and Global Warming established in the 110th Congress.

⁴⁵ The same additional order appeared in Section 5 of H.Res. 5 in the 112th Congress.

⁴⁶ A similar provision in Section 5 of H.Res. 5 in the 112th Congress applied to a resolution to be considered on Thursday, January 6, 2011, that reduced salaries and expenses authorized for Member, committee, and leadership offices. This provision, however, also expanded the debate time of 40 minutes under the rule on suspension of the rules to 2 hours. See also CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by (name redacted).

⁴⁷ See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by (name redacted).

In the 111th Congress, for example, Section 5 of H.Res. 5 made in order the consideration of H.R. 11, the Lilly Ledbetter Fair Pay Act, and H.R. 12, the Paycheck Fairness Act, and set the terms for the measures' debate. The House agreed to H.Res. 5 on January 6, 2009. On January 9, it considered H.R. 11 and H.R. 12 under the terms of the special order included in H.Res. 5, and passed the bills.

In the 110th Congress, special orders were included in H.Res. 6 providing for the consideration of H.R. 1, pertaining to recommendations of the 9/11 Commission; H.R. 2, relating to the minimum wage; H.R. 3, governing stem cell research; and H.R. 4, authorizing the Secretary of Health and Human Services to negotiate drug prices under Medicare Part D.

H.Res. 5 in the 106th Congress made in order consideration of a resolution to amend the House gift rules, and H.Res. 6 in the 104th Congress made in order the consideration of H.R. 1, the Congressional Accountability Act.

Speaker's Announcements

On the day of convening, the Speaker customarily announces the Speaker's policies with respect to certain floor practices for the duration of the Congress. These policies are grounded in authority or discretion granted the Speaker in the rules. The 10 policies in effect for the 113th Congress address

- privileges of the floor,
- introduction of bills and resolutions,
- unanimous consent requests for the consideration of legislation,
- recognition for one-minute speeches,
- recognition for special-order speeches,
- decorum in debate,
- conduct of votes by electronic device,
- use of handouts on the House floor,
- use of electronic equipment on the House floor, and
- use of the House chamber.⁴⁸

Daily Meeting Time for the House

The House establishes its daily hour of meeting for the first session of the new Congress by a simple resolution. It must therefore be renewed for the next session of Congress.⁴⁹

⁴⁸ See, "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 159, January 3, 2013, pp. H25-H27. Both parties' rules also contain guidance for their party leadership on the legislative process, for example, their rules on appropriate legislation to be considered under the suspension of the rules procedure. In addition, Majority Leader Eric Cantor has published "legislative protocols" to guide the majority leadership in scheduling and considering legislation; see <http://majorityleader.gov/Protocols>.

Morning Hour

The House by unanimous consent provides for a period preceding House sessions that is called Morning Hour. When Morning Hour occurs, Members may speak up to five minutes on topics of their choice.⁵⁰

Extension of Remarks

To eliminate a routine daily unanimous consent request, the House agrees by unanimous consent at the beginning of a Congress that Members may publish remarks and include supporting information in the Extension of Remarks section of the *Congressional Record*.⁵¹

Alternate Meeting Place

The House adopts a concurrent resolution (H.Con.Res. 1, 113th Congress) by unanimous consent to allow the Speaker and the majority leader of the Senate (or their designated representatives) to notify the Members of the House and Senate to assemble outside of Washington, DC, if circumstances require it.⁵²

Committee Organization

The committee assignment process occurs largely within the party groups—the Republican Conference and the Democratic Caucus. The conference and the caucus have their own rules governing committee assignments. The only action visible on the chamber floor is the adoption of simple resolutions that implement the committee nominations recommended by the conference and the caucus. The adoption of such resolutions is routine and occurs without debate or amendment because of the tacit understanding that each party has a right to establish its own internal distribution of assignments. The House may take up one or more assignment resolutions on opening day, but the consideration of additional assignment resolutions extends throughout January and possibly for several additional weeks.⁵³

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⁴⁹ See “Daily Hour of Meeting,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H24.

⁵⁰ See “Making in Order Morning-Hour Debate,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H24. See also CRS Report RS21174, *Special Order Speeches and Other Forms of Non-Legislative Debate in the House*, by (name redacted).

⁵¹ See “Granting Members Permission To Extend Remarks and Include Extraneous Material in the Congressional Record during the 113th Congress,” *Congressional Record*, daily edition, vol. 159, January 3, 2013, p. H24.

⁵² See “Regarding Consent to Assemble Outside the Seat of Government,” *Congressional Record*, daily edition, vol. 159, January 5, 2013, p. H24.

⁵³ See “Electing Members to Certain Standing Committees of the House of Representatives,” *Congressional Record*, daily edition, vol. 159, January 5, 2013, pp. H23-H24. See also CRS Report 98-151, *House Committees: Categories and Rules for Committee Assignments*, by (name redacted); CRS Report 98-367, *House Committees: Assignment Process*, by (name redacted); CRS Report 98-610, *House Subcommittees: Assignment Process*, by (name redacted); and CRS Report R40478, *House Committee Party Ratios: 98th-113th Congresses*, by (name redacted). See, in (continued...)

The House typically in March adopts a funding resolution for its committees. Interim funding through March would have been provided by the House in the preceding Congress.⁵⁴

Other First-Day Floor Actions

Other routine organizational business may be taken up on the House floor on the first day. Concurrent resolutions may be adopted providing for a joint session of Congress to receive the President's State of the Union message, or providing for an adjournment of the House and Senate.⁵⁵ The Speaker and minority leader might make appointments to commissions or committees or other offices.⁵⁶ A resolution of condolence on the death of a Member that occurred subsequent to the adjournment of the last Congress may also be considered.⁵⁷

Some resolutions are dependent on specific circumstances and do not occur on the first day of every new Congress. For example, following a presidential election, the House must adopt one or more resolutions providing for the counting by the new Congress of electoral votes cast for the President and Vice President of the United States; continuing the Joint Congressional Committee on Inaugural Ceremonies; and authorizing the use of the Capitol and its grounds for inaugural activities.⁵⁸

After the House has completed its initial organizational proceedings, it might then turn to legislative⁵⁹ or routine business, which normally completes its legislative day. Routine business

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addition, CRS Report RS21339, *Congress's Early Organization Meetings*, by (name redacted).

⁵⁴ If the House creates a new committee in its rules resolution, it might provide interim funding. See, for example, "Providing Amounts for Interim Expenses of the Committee on Homeland Security in the First Session of the 109th Congress," *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 71-73. See also, CRS Report R42778, *House Committee Funding: Description of Process and Analysis of Disbursements*, by (name redacted); and CRS Report RL32794, *House Committee Funding Requests and Authorizations, 104th-113th Congresses*, by (name redacted).

⁵⁵ See, for example, "Providing for a Conditional Recess or Adjournment of the Senate and an Adjournment of the House of Representatives," *Congressional Record*, daily edition, vol. 157, January 7, 2011, p. H31.

⁵⁶ See "Appointment—House Offices Building Commission," "Appointment of Members to Permanent Select Committee on Intelligence," and "Appointment of Members to Joint Economic Committee," *Congressional Record*, daily edition, vol. 159, January 5, 2013, pp. H24-H25. See also, "Authorizing the Speaker, Majority Leader and Minority Leader To Accept Resignations and Make Appointments During the 113th Congress," *Congressional Record*, daily edition, vol. 157, January 7, 2011, p. H31.

⁵⁷ See, for example, "Expressing Sorrow of the House at the Death of the Honorable Robert T. Matsui, Member of Congress From the State of California," *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 84-103. See also "Expressing Profound Regret and Sorrow of the House on the Death of Gerald R. Ford, 38th President of the United States of America," *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 493.

⁵⁸ See "To Provide for the Counting on January 4, 2013 of the Electoral Votes for President and Vice President of the United States" and "Extending the Life of the Joint Congressional Committee on Inaugural Ceremonies," *Congressional Record*, vol. 159, January 3, 2013, p. H25. See also CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, by (name redacted) and (name redacted).

⁵⁹ Legislative business conducted opening day has included the filing of special rules by the Rules Committee. See for example, "Report on Resolution Providing for Consideration of S. 23, Temporary Extended Unemployment Compensation Act of 2002," and "Report on Resolution Providing for Consideration of H.J. Res 1, Further Continuing Appropriations for Fiscal Year 2003 and H.J. Res. 2, Further Continuing Appropriations for Fiscal Year 2003," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 45. It has also included a resolution made in order by the rules resolution to change House ethics rules. See "House Gift Rule Amendment," *Congressional Record*, vol. 147, (continued...)

might include the introduction of bills and resolutions,⁶⁰ receipt and referral of messages from the President and executive communications and agencies,⁶¹ receipt of messages from the Senate,⁶² one-minute and special-order speeches,⁶³ and notices and announcements required by House rule or regulation.⁶⁴

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Acknowledgments

This report was originally written by (name redacted), former CRS specialist on the Congress. Mrs. Amer has retired from the Congressional Research Service.

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part 1 (January 6, 1999), pp. 237-240. Legislative business has included impeachment procedures related to the impeachment of President Bill Clinton. See “Providing For Certain Appointments and Procedures Relating to Impeachment Proceedings,” *Congressional Record*, vol. 147, part 1 (January 6, 1999), pp. 240-245. And, legislative business has included legislation made in order by the rules resolution. See, for example, “Congressional Accountability Act of 1995,” *Congressional Record*, vol. 141, part 1 (January 4, 1995), pp. 530-545.

⁶⁰ The rules resolution typically includes an order reserving bill numbers for the majority (H.R. 1-H.R. 10) and the minority (H.R. 11-H.R. 20). See H.Res. 5, §3(h), agreed to in the House January 3, 2013. See also CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by (name redacted); CRS Report 98-706, *Bills and Resolutions: Examples of How Each Kind Is Used*, by (name redacted); and CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by (name redacted).

⁶¹ See “Executive Communications, Etc.,” *Congressional Record*, vol. 159, January 3, 2013, p. H27.

⁶² See “Message From the Senate,” *Congressional Record*, vol. 159, January 3, 2013, p. H22.

⁶³ See, for example, “Special Orders,” *Congressional Record*, vol. 153, part 1 (January 4, 2007), pp. 43-58.

⁶⁴ See, for example, the notice of receipt of a subpoena at “Communication from Chief of Staff of Hon. John M. Shimkus, Member of Congress,” *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 22.

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