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Lame Duck Sessions of Congress, 1935-2018 (74th-115th Congresses)

Updated October 13, 2020

Congressional Research Service
https://crsreports.congress.gov
R45154

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

A "lame duck" session of Congress occurs whenever one Congress meets after its successor is elected but before the end of its own constitutional term. Under present conditions, any meeting of Congress between election day in November and the following January 3 is a lame duck session. Prior to 1933, when the Twentieth Amendment changed the dates of the congressional term, the last regular session of Congress was always a lame duck session. Today, however, the expression is primarily used for any portion of a regular session that falls after an election.

Congress has held 22 lame duck sessions since the implementation of the Twentieth Amendment. From the first modern lame duck session in 1940 to 1998, the sessions occurred sporadically. Beginning in 2000, both houses of Congress have held a lame duck session following every election. In this report, the data presentation is separate for the sporadic period (76th-105th Congresses) and the consistent period (106th-present) in order to identify past and emerging trends.

Lame duck sessions can occur in several ways. Either chamber or both chambers may (1) provide for an existing session to resume after a recess spanning the election; (2) continue meeting in intermittent, or *pro forma,* sessions during the period spanning the election; or (3) reconvene after an election pursuant to contingent authority granted to the leadership in a recess or adjournment resolution. Two other possibilities have not occurred: (4) Congress could set a statutory date for a new session to convene after the election, then adjourn its existing session *sine die*; and (5) while Congress is in recess or *sine die* adjournment, the President could call it into extraordinary session at a date after the election.

During both the sporadic and the consistent periods, election breaks have usually begun by mid-October and spanned between one and two months. Congress has most often reconvened in mid-November and adjourned before Christmas so that the lame duck session lasted about a month. However, in five out the past six Congresses, lame duck sessions have continued into January, producing later adjournments, longer sessions, and more days convened in daily sessions.

Lame duck sessions have been held for a variety of reasons. Their primary purpose is to complete action on legislation. However, they have also been used to prevent recess appointments and pocket vetoes, to consider motions of censure or impeachment, or to keep Congress assembled on a standby basis. In recent years, most lame duck sessions have focused on program authorizations, trade agreements, appropriations, and the budget.

This report will be updated after any additional lame duck session occurs.

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Introduction

A "lame duck" session of Congress is one that takes place after the election for the next Congress has been held but before the current Congress has reached the end of its constitutional term.[1] Since 1935, the constitutional term of a Congress has begun on January 3 of each odd-numbered year and has ended on January 3 of the next odd-numbered year. As a result, any meeting of Congress that occurs between the congressional election in November of an even-numbered year and the following January 3 is a lame duck session. The significant characteristic of a lame duck session is that its participants are the sitting Members of the existing Congress, not those who will be entitled to sit in the new Congress.

For the purposes of this study, a lame duck session commences on the first day of consecutive sessions following an election.[2] It ends on the day of final *sine die* adjournment.

Meaning of "Lame Duck"

The expression "lame duck" was originally applied in 18th century Britain to bankrupt businessmen, who were considered "lame," like a game bird injured by shot. By the 1830s, the usage had been extended to officeholders whose service already had a known termination date. In current American usage, for instance, a President is considered a "lame duck" after his successor has been elected and also whenever he is known not to be a candidate for reelection.[3]

Members of Congress in similar circumstances are also considered "lame ducks." The expression may be applied to Members who are known not to be seeking reelection as well as to those who have been defeated. In particular, however, after an election of Congress, all the Members who did not gain reelection can be described as lame ducks until the term of the new Congress starts. When the previously sitting Congress, which includes these Members, meets after the election, this session is called a lame duck session.[4]

Lame Duck Sessions in the Modern Congress

The possibility of a lame duck session of Congress in the modern sense began with the ratification of the Twentieth Amendment to the Constitution. Under this amendment, ratified in 1933, the terms of Members begin and end on January 3 of odd-numbered years. Congress convenes in a regular session on January 3 of each year unless it passes a law changing the date. Thus, the 74th Congress (1935-1937) was the first to begin its first session and the terms of its Members on the new date. Any meeting of Congress after a federal election day (in November of even-numbered years) but before the following January 3 is a lame duck session.

This report examines only the lame duck sessions that have occurred since the 74th Congress, not those that, as explained in the following section, occurred regularly before that time. Through

[1] This report follows and uses much of the information from an earlier report by Richard S. Beth. See CRS Report RL33677, *Lame Duck Sessions of Congress, 1935-2012 (74th-112th Congresses)*. For general information on much of the technical terminology used in this report related to congressional sessions, see CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen.

[2] The resumption of consecutive daily sessions indicates that an election recess, period of conditional adjournment, or series of election-spanning *pro forma* sessions has ended and Congress has returned to a regular schedule.

[3] William Safire, *Safire's Political Dictionary* (New York: Oxford University Press, 1993), pp. 378-379.

[4] See Raymond W. Smock, "Lame Duck Session," in Donald C. Bacon, Roger H. Davidson, and Morton Keller, eds., *Encyclopedia of the United States Congress* (New York: Simon & Schuster, 1995), vol. 3, pp. 1244-1245.

2018, there have been 22 lame duck sessions. Between 1935 and 1998, lame duck sessions occurred in 12 of 32 Congresses; in contrast, they have occurred in every one of the 10 Congresses from 1999 through 2018. In order to present the differences between the two periods, this report discusses data from the 20th and 21st centuries separately.

Lame Duck Sessions Before the Twentieth Amendment

The Constitution originally provided that the regular sessions of Congress begin annually on the first Monday in December. Congress began and ended its term on March 4 of odd-numbered years.[5] Congressional elections were still generally held in November of even-numbered years.

Members of Congress were elected in an even-numbered November, but the term for the new Congress did not begin until the following (odd-numbered) March. However, a new Congress often did not convene its first session until the following December, 13 months after it was first elected. This session of Congress typically continued until the summer of the following even-numbered year. Congress would then adjourn until the next regular session prescribed by the Constitution, beginning in the following even-numbered December. When this session convened, however, the next Congress would already have been elected in the intervening even-numbered November.

Under these arrangements, the last session of every Congress was always a lame duck session.[6] One purpose of the Twentieth Amendment was to change the timing that caused every Congress to hold its last session after an election.[7]

Sometimes a Congress would convene its first session as early as March, especially when a new President was entering office. This became the first session of a Congress, and the odd-year December session became its second session. The final session of the Congress, beginning in the even-year December, was the third session. This final session, however, would still be a lame duck session of the old Congress, because it would convene at a time when the new Congress had already been elected in November but had not yet begun its term of office.

How Lame Duck Sessions May Occur

Under the Twentieth Amendment, lame duck sessions can still occur but only as a result of specific actions undertaken either by the Congress already sitting or by the President. A lame duck session may occur under the following circumstances: (1) by a previously enacted law prescribing an additional session of Congress; (2) following a recess within a session but spanning the election; (3) under authority granted to the leadership at the time of a *contingent adjournment* or recess of the session; (4) by continuing to meet, perhaps in *pro forma* sessions, throughout the period spanning the election; and (5) in response to a presidential proclamation calling an extraordinary session.

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[5] U.S. Congress, Senate, *The Constitution of the United States: Analysis and Interpretation*, prepared by Congressional Research Service, 112th Cong., 2nd sess., S.Doc. 112-9 (Washington: GPO, 2016).

[6] This session, beginning in the even-numbered December, could only last until the term of the sitting Congress expired early in the following March, when the new Congress came into office. For this reason, it was colloquially known as the "short session."

[7] See P. Orman Ray, "Lame-Duck Amendment," in Stanley I. Kutler, ed., *Dictionary of American History*, 3rd ed. (New York: Scribner, 2003), vol. 5, p. 24. For more information on the adoption of the Twentieth Amendment, see Alan P. Grimes, *Democracy and the Amendments to the Constitution* (Lexington, MA: Lexington Books, D. C. Heath, 1978), pp. 104-108.

Although some of these methods have been used rarely and others not at all, each helps to illuminate the constitutional arrangements that make lame duck sessions possible and the conditions in which they may operate. The following sections describe each method and indicate its implications.

Sine Die Adjournment and Its Effects

Although the "lame duck sessions" that have occurred before and after 1935 are both "lame duck" in the same sense, they are not "sessions" in the same sense. Formally, a session of Congress ends when Congress adjourns *sine die*. In Latin, the phrase means "without day," or without a day designated to return; adjourning sine die closes the final day of a legislative session.[8] An adjournment *sine die*, therefore, means that Congress is not scheduled to meet again until the day set by the Constitution (or by law) for its next session to convene.

The Constitution authorizes Congress to set its own adjournment date without the involvement of the President, unless the two houses cannot agree.[9] Congress therefore authorizes a *sine die* adjournment by concurrent resolution. This form of measure requires adoption by both houses but no action by the President.

When Congress adjourns *sine die* in an election year, it is not scheduled to meet again before the term of the new Congress begins. Before the *sine die* adjournment, however, Congress could provide by law that an additional session of the old Congress convene on a date after the election. Nevertheless, since 1935, Congress has never convened a lame duck session as a new, third session of the old Congress.

Recess of the Session

When a Congress has decided to continue meeting after an election, its usual practice has been not to adjourn *sine die* but simply to recess its existing session for a period spanning the election. It can then reconvene at a date still within the constitutional term of the sitting Congress.

Congress authorizes a session recess in the same way it authorizes a *sine die* adjournment: by adopting a concurrent resolution. The Constitution provides that "Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days."[10] Thus, each chamber must consent to the adjournment of the other. Congress achieves this end with concurrent resolutions, which require action by both houses.

Unlike a *sine die* adjournment, however, a recess of the session does not terminate the existing session of Congress; instead, the previously existing session resumes. Nevertheless, the phrase "lame duck session" has persisted as a way of referring to any post-election meeting of the old Congress, even though it does not designate a distinct (i.e., third) session of Congress.

Contingent Authority to Reconvene

Lame duck sessions may also occur when the House or Senate leadership uses contingent authority to reconvene the respective chambers "if the public interest shall require." Since 1935, it has become common for Congress to include contingent authority for the leadership to reconvene

[8] In congressional usage, the phrase is generally pronounced "sign a dye."

[9] U.S. Const. art. I, §3.

[10] U.S. Const. art. I, §5.

the House and Senate in the concurrent resolutions providing for either a session recess or a *sine die* adjournment.

Congress may use this contingent authority as a means to return early from a recess spanning an election. Any portion of the reconvened session that occurs after the election would be considered a lame duck session. Since the Twentieth Amendment took effect, however, this course of action has not been taken.

Congress may also use contingent authority to reconvene after a *sine die* adjournment. In this case, the *sine die* character of the adjournment becomes definitive only if the leadership does not exercise this authority by the time the next session of Congress is slated to convene. If the authority is exercised, the existing session of the old Congress resumes, and the previous adjournment turns out not to have been *sine die*. Any post-election portion of this continuation of the previous session of Congress would be considered a lame duck session.

The Speaker of the House has twice used authority of this kind to reconvene the chamber in a post-election continuation of a session that had previously been terminated by a conditional *sine die* adjournment. These lame duck sessions of the House occurred in 1998 (105th Congress) and 2008 (110th Congress).[11] No lame duck session of the Senate has been reconvened pursuant to authority of this kind.

Pocket Vetoes and Contingent Authority to Reconvene

One reason why leadership might call Congress back is to avoid a "pocket veto." The Constitution provides that if the President vetoes a bill while Congress is in session, he must return the vetoed bill to Congress so that Congress may attempt to override a veto. If the last regular session of a Congress has adjourned *sine die*, however, the Congress that passed the bill can no longer convene to override the veto, so the veto automatically becomes final. Under these conditions, the Constitution empowers the President to prevent the bill from becoming law simply by not returning it. This action is colloquially called a "pocket veto." Contingent authority reduces the possibility of a pocket veto, because it gives Congress the opportunity to reconvene to override the veto.[12]

Pro Forma Sessions

Lame duck sessions can also occur if, instead of taking a recess, Congress simply continues to meet throughout the period spanning the election. When Congress takes this course of action, each house typically convenes only two days per week. Sessions held under these conditions are often *pro forma* sessions, meaning that they are held only "for the sake of formality." In this case, the formality being satisfied is the constitutional prohibition against adjourning for more than

[11] "Notification of Reassembling of Congress," proceedings in the House, *Congressional Record*, vol. 144 (December 17, 1998), p. 27770. See H.Con.Res. 353, 105th Cong., 112 Stat. 3699 at 3700. "Notification of Reassembly," proceedings in the House, *Congressional Record*, vol. 154 (December 9, 2008), p. H10859. See H.Con.Res. 440, 110th Cong., agreed to October 3, 2008.

[12] CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen; CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: In Brief*, by Meghan M. Stuessy.

three days without consent from the other chamber.[13] The Constitution does not require that business takes place during these sessions but only that they occur.[14]

There is no formal definition of what constitutes a *pro forma* session, but the term is commonly applied to any daily session of a chamber if (1) failure to hold the session would cause the chamber to violate the constitutional prohibition against adjournments of more than three days, and (2) the chamber conducts no substantive business during the session. For ease of analysis, however, this report treats as *pro forma* all and only daily sessions of a chamber that stand alone with no session on the preceding day or the following day.[15] Conversely, this report counts daily sessions as part of the regular schedule if they are adjacent to at least one other day of session or if they occur on the day of *sine die* adjournment.

During periods of extended *pro forma* sessions, Congress typically conducts little or no substantive legislative activity. Thus, this report considers the *pro forma* sessions during the election break separately from the lame duck session.

Pro Forma Sessions and Recess Appointments

Like contingent authority to reconvene, *pro forma* sessions can prevent pocket vetoes if they are used to extend the period in which Congress is in session.[16] The Senate may also use *pro forma* sessions to avoid recess appointments within a session or after the session would otherwise adjourn *sine die*. The Constitution provides, "The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session."[17] However, if the Senate meets in *pro forma* sessions during the period spanning an election, no recess occurs during which the President might make such appointments. For this reason, *pro forma* sessions are also used to extend a lame duck session until the next Congress convenes.

Sessions Called by the President

The Constitution authorizes one additional means for holding a lame duck session. "On extraordinary occasions," the President may call Congress into a special session.[18] If this special session occurs after a final *sine die* adjournment and before the term of the next Congress commences, a new session of the existing Congress begins. However, such a special session has not occurred since the ratification of the Twentieth Amendment.[19]

On the other hand, if the President calls Congress back during a recess of an existing session, the existing session resumes. This course of events occurred in both 1947 and 1948, when President Harry Truman called Congress back for an extraordinary session in the middle of a recess. These

[13] See Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington: CQ Press, 2001), p. 192.

[14] For purposes of the three-day prohibition, Congress omits Sundays from the count.

[15] *Pro forma* stand alone; it has no session immediately preceding or following it. For example, any Tuesday session that next follows a Thursday session, and is not followed by a Wednesday session, would be *pro forma*.

[16] CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen; CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by Henry B. Hogue.

[17] U.S. Const. art. II, §2.

[18] U.S. Const. art. II, §3.

[19] In 1937 and 1939, President Franklin D. Roosevelt called Congress into special second sessions after the first session adjourned, but these were not lame duck sessions, as they did not occur after an election. U.S. Congress, House, *Deschler's Precedents of the United States House of Representatives*, H.Doc. 94-661, 94th Cong., 2nd sess., vol. 1, by Lewis Deschler, Parliamentarian of the House, 1928-1974 (Washington: GPO, 1977), ch. 1, §§2-3.

extraordinary sessions called by President Truman did not constitute lame duck sessions, because they both convened and recessed before the election for the following Congress.

Characteristics of Lame Duck Sessions, 1935-1998

Lame duck sessions were used sporadically by Congress from 1935, when the Twentieth Amendment became effective, to 1998, when just the House met following the election. During this period, there were 12 lame duck sessions; see **Table 1**.

Lame duck sessions were frequent in the years surrounding World War II, occurring in six of the eight Congresses (76th through 83rd) between 1940 and 1954. The next six lame duck sessions were scattered between 1970 and 1998 (84th through 105th Congresses). On one occasion, in 1954, only the Senate returned and only to consider the censure of Senator Joseph McCarthy. In 1998, only the House returned, principally to consider the impeachment of President Bill Clinton.

Election Breaks

Election breaks preceding 20th century lame duck sessions began as early as August 7 (1948) and as late as October 27 (1942). On average, election breaks lasted less than two months. The two chambers most often used recesses, *pro forma* sessions, or a combination of both to span the election break. On one occasion, however, the House reconvened following a contingent adjournment *sine die* (1998).

Length of Lame Duck Sessions

Twentieth century lame duck sessions usually convened in mid- to late-November and adjourned *sine die* before Christmas. They typically lasted about a month from the first day of consecutive sessions after an election to a final *sine die* adjournment of Congress.

From 1935 through 1998, the longest of all lame duck sessions was the first (76th Congress). The Senate remained in session between November 7, 1940, and January 3, 1941. Only one other early lame duck session lasted more than 38 days: that of the 91st Congress (1970). The session continued for 48 calendar days when the House and Senate considered spending measures and major elements of President Nixon's legislative program.

The shortest of all lame duck sessions was that of the 80th Congress (1948), when both houses returned solely to close the session on December 31, 1948.[20] In general, however, short lame duck sessions have been held for special or limited purposes, including the two occasions on which only one house returned. In 1994, when the 103rd Congress implemented the new General Agreement on Tariffs and Trade, the Senate met for two days and the House met for one. In the 105th Congress (1998), the House alone returned for three days to address the impeachment of President Clinton.

[20] While it is unclear why the Republican majority party leadership decided to return for one day, rather than adjourn *sine die* prior to the election, the contentious relationship with President Truman likely influenced the decision to keep Congress in a standby status. See footnote 27.

Table 1. Lame Duck Sessions of Congress, 1935-1998

Year of Election	Congress	Chamber	First Day of Election Break[a]	Form of Break Spanning Election	Lame Duck Session[b]
1940	76th	House	Oct. 11	*Pro forma* sessions	Nov. 18, 1940-Jan. 2, 1941
		Senate	Oct. 16		Nov. 7, 1940-Jan. 3, 1941
1942	77th	House	Oct. 28	*Pro forma* sessions	Nov. 9-Dec. 16, 1942
		Senate	Oct. 25		Nov. 12-Dec. 16, 1942
1944	78th	House	Sept. 22	Recess and *pro forma* sessions	Nov. 20-Dec. 19, 1944
		Senate			
1948	80th	House	Aug. 8	Recess	Dec. 31, 1948 (one day session)
		Senate			
1950	81st	House	Sept. 24	Recess and *pro forma* sessions	Nov. 30, 1950-Jan. 2, 1951
		Senate		Recess	Nov. 27, 1950-Jan. 2, 1951
1954	83rd	House	Aug. 21	Adjourned *sine die*	—
		Senate		Recess	Nov. 8-Dec. 2, 1954
1970	91st	House	Oct. 15	Recess	Nov. 16, 1970-Jan. 2, 1971
		Senate			
1974	93rd	House	Oct. 18	Recess	Nov. 18-Dec. 20, 1974
		Senate			
1980	96th	House	Oct. 3	Recess	Nov. 12-Dec. 16, 1980
		Senate			
1982	97th	House	Oct. 3	Recess	Nov. 29-Dec. 21, 1982
		Senate			Nov. 29-Dec. 23, 1982
1994	103rd	House	Oct. 9	Recess	Nov. 29, 1994 (one day session)
		Senate			Nov. 30-Dec. 1, 1994
1998	105th	House	Oct. 22	Adjourned *sine die*	Dec. 17-19, 1998[c]
		Senate			—

Sources: *Journals* of the House and Senate, Daily Digest of the *Congressional Record*, and *Final Calendars* of the House and Senate.

Notes:

a. The first day of the election break is the day following the last day of consecutive sessions prior to the election.

b. The first day of the lame duck session is the first day of consecutive sessions following the election. The last day is the day of final *sine die* adjournment.

c. Reconvened pursuant to contingent authority granted to leadership in the adjournment resolution.

Days in Daily Sessions after Election

During the earlier period, almost every lame duck session contained *pro forma* sessions and internal recesses, especially during the Thanksgiving and Christmas holidays. Thus, a long session, in terms of calendar days between convening and adjourning, may not always indicate a busy legislative session.

An alternative measure of session length is the number of days the House and Senate met in daily sessions after the election. For this purpose, all daily sessions are counted between the election day and the *sine die* adjournment whether the sessions are held on consecutive days or not. These daily sessions may have been *pro forma* only, meaning they were short with no legislative business conducted, or they may have been held with the expectation that at least one pending issue would be addressed.

On average, the House convened in 16 daily sessions after the election. The Senate averaged 18 days. **Table 2** displays the number of daily sessions following an election, as well as the calendar length of the session and election break.

Table 2. Length of Election Breaks and Lame Duck Sessions, 1935-1998

Year of Election	Congress	Length in Calendar Days of Break Spanning Election[a]		Length in Calendar Days and (Days of Daily Sessions) of Lame Duck Session[b]	
		House	Senate	House	Senate
1940	76th	38	22	46 (20)	58 (21)
1942	77th	12	18	38 (20)	35 (21)
1944	78th	59	59	30 (24)	30 (24)
1948	80th	145	145	1 (1)	1 (1)
1950	81st	67	64	34 (22)	37 (24)
1954	83rd	—	79	—	25 (13)
1970	91st	32	32	48 (28)	48 (31)
1974	93rd	31	31	33 (18)	33 (22)
1980	96th	40	40	35 (20)	35 (23)
1982	97th	57	57	23 (19)	25 (20)
1994	103rd	51	52	1 (1)	2 (2)
1998	105th	56	—	3 (3)	—

Sources: Table 1 and House and Senate Calendars.

Notes:

a. Includes all calendar days between the last day of consecutive sessions before the election and the first day of consecutive sessions after the election.

b. Includes all calendar days from the first day of consecutive sessions after the election through final *sine die* adjournment and, respectively, the number of days the House and Senate met in daily sessions after the election.

Characteristics of Lame Duck Sessions, 2000-present

Since 2000 (106th Congress), both the House and Senate have reconvened after every election; see **Table 3**. While these consistent lame duck sessions have occurred under varied circumstances, they have generally focused on spending provisions. In eight of the ten 21st century lame duck sessions, Congress passed regular appropriations bills or continuing resolutions to maintain government funding.[21]

Table 3. Lame Duck Sessions of Congress, 2000-2018

Year of Election	Congress	Chamber	First Day of Election Break[a]	Form of Break Spanning Election	Lame Duck Session[b]
2000	106th	House	Nov. 4	Recess	Nov. 13-Dec. 15, 2000
		Senate	Nov. 3	Recess and *pro forma* sessions	Dec. 5-Dec. 15, 2000
2002	107th	House	Oct. 18	*Pro forma* sessions	Nov. 7-Nov. 22, 2002
		Senate			Nov. 7-Nov. 20, 2002
2004	108th	House	Oct. 10	Recess	Nov. 13-Dec. 9, 2004
		Senate	Oct. 12		
2006	109th	House	Oct. 1	Recess and *pro forma* sessions	Nov. 13-Dec. 9, 2006
		Senate			
2008	110th	House	Oct. 4	Adjournment *sine die* [c]	Nov. 19, 2008-Jan. 3, 2009
		Senate	Oct. 8	*Pro forma* sessions	Nov. 19, 2008-Jan. 2, 2009
2010	111th	House	Oct. 1	Recess	Nov. 15-Dec. 22, 2010
		Senate	Sept. 30	*Pro forma* sessions	
2012	112th	House	Sept. 22	*Pro forma* sessions	Nov. 13, 2012-Jan. 3, 2013
		Senate	Sept. 23		Nov. 13, 2012-Jan. 2, 2013
2014	113th	House	Sept. 20	Recess	Nov. 12, 2014-Jan. 2, 2015
		Senate	Sept. 19	Recess and one *pro forma* session	Nov. 12-Dec. 16, 2014
2016	114th	House	Sept. 29	Recess	Nov. 14, 2016-Jan. 3, 2017
		Senate	Oct. 8	*Pro forma* sessions	
2018	115th	House	Sept. 29	*Pro forma* sessions	Nov. 13, 2018-Jan. 3, 2019
		Senate	October 13		

Sources: *Journals* of the House and Senate, Daily Digest of the *Congressional Record*, and *Final Calendars* of the House and Senate.

[21] See CRS Report R46574, *The Enactment of Appropriations Measures During Lame Duck Sessions*, by Kevin P. McNellis.

Notes:

a. The first day of the election break is the day following the last day of consecutive sessions prior to the election.

b. The first day of the lame duck session is the first day of consecutive sessions following the election. The last day is the day of final *sine die* adjournment.

c. The Speaker of the House used contingent authority to reconvene the chamber after a conditional *sine die* adjournment.

Election Breaks

In the period after 1998, the House and Senate have generally maintained election breaks of equal or nearly equal length. In the past two lame duck sessions, however, the Senate, prior to the election, has remained in session later than the House, leading to shorter election breaks.

On average, the breaks lasted 39 days and began in early October. In six out of the last seven Congresses, however, at least one house started its break in mid- or late September.

As lame duck sessions have become routine occurrences, the House and Senate have been less likely to use identical forms to span the election break. The chambers have diverged on five occasions in their use of recesses or *pro forma* sessions.[22] The most significant difference occurred in 2008. That year, the House adjourned *sine die* before returning to address the financial crisis, while the Senate continued to meet in *pro forma* sessions during the election break.

Since 2000, the Senate has increasingly spanned its election breaks with *pro forma* sessions. It used *pro forma* sessions exclusively six times, extended its recess with *pro forma* sessions two times, and in 2014, interrupted its election break recess with one pre-scheduled *pro forma* session. The Senate held one election-spanning recess that included no additional *pro forma* sessions (2004). This pattern presents a marked change from the early period, when the Senate used recesses alone before every lame duck session from 1948 through 1994.

In contrast, the House has continued to rely more often on recesses to span election breaks. On five occasions, it has held an election recess with no additional *pro forma* sessions. The House used *pro forma* sessions three times to span its break and once to extend a break that began with a recess.

Length of Lame Duck Sessions

During the period in which Congress has consistently held lame duck sessions, they have generally begun in mid-November, or about a week following the election. The average date the House and Senate adjourned *sine die* was December 21 and December 19, respectively. In five out of the past six Congresses, however, at least one house adjourned on January 2 or 3, suggesting a trend toward later adjournments.

As with election breaks, the House and Senate, since 2000, have usually held lame duck sessions of similar length in calendar days; see **Table 4**.[23] On average, in the House, lame duck sessions

[22] In 2000 and 2014, both the House and Senate recessed. However, the Senate extended or interrupted its recess with *pro forma* sessions, while the House did not.

[23] In eight of the 10 post-1998 lame duck sessions, the two chambers held sessions that differed by no more than two calendar days in length. The exceptions, though (2000 and 2014), featured relatively large gaps of 22 and 17 days. In 2000 (106th Congress), the House returned earlier than the Senate did from its election recess and held a 33-day lame duck session, while the Senate adjourned its lame duck session after only 11 days. However, the House spent much of

have spanned 39 calendar days; in the Senate, 35. In comparison to the earlier period, both houses have increased the average length of their lame duck sessions. The six most recent lame duck sessions, in particular, indicate a trend toward greater length.

Table 4. Length of Election Breaks and Lame Duck Sessions, 2000-2018

Year of Election	Congress	Length in Calendar Days of Break Spanning Election[a]		Length in Calendar Days and (Days of Daily Sessions) of Lame Duck Session[b]	
		House	Senate	House	Senate
2000	106th	9	32	33 (11)	11 (8)
2002	107th	20	20	16 (8)	14 (9)
2004	108th	37	35	22 (8)	23 (9)
2006	109th	43	43	27 (9)	27 (11)
2008	110th	46	42	46 (5)	45 (22)
2010	111th	45	46	38 (19)	38 (29)
2012	112th	52	51	52 (28)	51 (30)
2014	113th	53	54	52 (18)	35 (18)
2016	114th	46	37	51 (23)	51 (25)
2018	115th	45	31	52 (26)	52 (29)

Sources: Table 3 and *House* and *Senate Calendars*.

Notes:

a. Includes all calendar days between the last day of consecutive sessions before the election and the first day of consecutive sessions after the election.

b. Includes all calendar days from the first day of consecutive sessions after the election through final *sine die* adjournment, as well as number of days the House and Senate met in daily sessions after the election.

Days in Daily Sessions after Election

As in the earlier period, the number of days the House and Senate are actually in session is likely to be a more meaningful indicator of legislative activity than the calendar length of the lame duck session, even when the days of daily session include *pro forma* meetings. During the period of consistent lame duck session, the House convened in daily sessions for an average of 16 days; the Senate, 19 days.

The four lame duck sessions beginning in 2000 featured few days in daily sessions. The House and Senate convened for an average of nine days. In contrast, the six most recent lame duck sessions have convened on an average of 20 days in the House and 26 days in the Senate. In 2008, the Senate held frequent *pro forma* sessions in order to avoid recesses or adjournments and, thus, limit the opportunity for President George W. Bush to make recess appointments. Since the 2010 lame duck session, the duration of lame duck sessions in both chambers can be attributed, in part, to the need to negotiate spending or revenue legislation.

that time in a second recess. In 2014 (113th Congress), the House and Senate both returned from the election recess on November 12. The House remained in session for 52 days until January 2, and the Senate remained in session for 35 days until December 16. For both houses, though, December 16 was the last day in which business was transacted.

Comparing the Post-1935 Periods

Comparing the two time periods reveals both similarities and differences between the 20th and 21st century lame duck sessions. **Table 5** displays data on average calendar length of election breaks and lame duck sessions and number of days spent in post-election daily sessions.

Since 2000, the length of election breaks, on average, has declined in both chambers. The difference in election breaks is due, in part, to the 1948 session, which featured a notably long election break of 145 days. When that year is omitted, it is still clear that the average election break has become shorter, but the difference is less striking. In the House and Senate, the average election break declined by 13 and 15 days, respectively, in the post-1998 period (five and six days when omitting 1948).

At the same time, the House has extended the calendar length of its lame duck sessions by an average of 12 days (10 days when omitting 1948). The average length of the Senate's lame duck sessions, however, has extended an average of five days (two days when omitting 1948).

The table's "Days in Daily Session" column displays the average number of days that the House and Senate met in daily sessions following elections. On average, the House and Senate showed little change between the two periods; the increase in House lame duck session length, then, did not mean an increase in post-election meetings.

In both chambers, however, lame duck sessions have adjourned later since the 2008 session. In five of the past six election years, the House or Senate adjourned in January. During this entire period, the two chambers have held longer lame duck sessions and more days in daily sessions.

Table 5. Average Length of Breaks and Lame Duck Sessions and Days in Daily Sessions, 1935-2018

	Length of Election Break[a]		Length of Lame Duck[a]		Days in Daily Sessions[b]	
Period	House	Senate	House	Senate	House	Senate
20th century	54	55	27	30	16	18
21st century	40	39	39	35	16	19
21st century (2008-2018)	48	44	49	45	20	26

Sources: Table 2 and **Table 4**.

Notes: Averages omit years in which the chamber did not return for a lame duck session.

a. Length of break and lame duck sessions are measured in calendar days.

b. Days of daily session each chamber met during the lame duck session, including *pro forma* meetings.

Forms of Election Breaks

The forms of election breaks are summarized in **Table 6**. Between the two periods, the House's use of recesses, *pro forma* sessions, and contingent *sine die* adjournments did not change in frequency. The Senate, however, has increased its use of *pro forma* sessions and decreased its use of recesses to span elections.

From 1935 to 1998, the Senate recessed exclusively (i.e., the recess was not extended or interrupted by *pro forma* sessions) before eight out of its 11 lame duck sessions. Since 2000, the Senate has used this approach before one of 10 lame duck sessions. Correspondently, the

exclusive use of *pro forma* sessions has increased to 60% of election breaks from a previous rate of 18%. On three occasions, the Senate used a combination of recess and *pro forma* sessions, increasing its proportion from 8% to 33%. The only post-1998 session that did not feature any *pro forma* sessions occurred in 2004, a year when both the Senate and President represented the same party, reducing Senate concerns about recess appointments.

Table 6. Forms of Election Breaks, 1935-2018

	House				Senate			
Period	**recess**	***pro forma***	**both[a]**	**contingent *sine die***	**recess**	***pro forma***	**both**	**contingent *sine die***
20th century	6 (55%)	2 (18%)	2 (18%)	1 (9%)	8 (73%)	2 (18%)	1 (9%)	0
21st century	5 (50%)	3 (30%)	1 (10%)	1 (10%)	1 (10%)	6 (60%)	3 (30%)	0

Sources: Table 1 and **Table 3**.

Note:

a. The column "both" denotes those occurrences when *pro forma* sessions were used to extend or interrupt a recess.

Summaries of Lame Duck Sessions Since 1935

The 22 lame duck sessions occurring since the 74th Congress are summarized below. When lame duck sessions occurred sporadically (1935-1998), Congress most often used the post-election meetings to address specific, urgent concerns (**Table 7**). Several lame duck sessions focused on war or military concerns (1940, 1942, 1944, and 1950). Other issues included the censure of Senator Joseph McCarthy, the approval of Nelson Rockefeller's nomination for Vice President, and the impeachment of President Bill Clinton. In the more recent years (2002-2018), however, the lame duck sessions have been more likely to focus on government funding and more general legislative concerns (**Table 7**).[24]

76th Congress, 3rd Session (1940-1941)

After the first session of the 76th Congress adjourned in August 1939, President Franklin D. Roosevelt called Congress into extraordinary session in September to address the threat of war in Europe, and this session lasted into November. Thus, the annual session that began on January 3, 1940, was the third session of the 76th Congress. It, too, was dominated by the international situation. The President requested the largest peacetime defense program to that point in American history, and by the end of the summer, Congress had enacted $13 billion in defense authorizations and appropriations, a military draft, income tax revisions, an excess profits tax, and related measures.

In June and July and again in September 1940, the President suggested that Congress adjourn. Some congressional leaders, however, held that Congress should "stand by" in session in case of emergency. Congress met regularly through mid-October and then limited itself to two or three meetings per week until January 3, 1941; there was no extended recess for the November 1940 elections. Thus, the session became the longest in history to that point.

[24] The lame duck session descriptions are based on primary sources, including the *Congressional Record* and *Congressional Directory*, and secondary sources, including the *Congressional Quarterly Weekly Report*, *CQ Almanac*, and, for the earlier years, the *New York Times*. Internet-based sources were also used.

During the lame duck period that followed the election, little was undertaken; the *Congressional Record* from November 4, 1940, through January 3, 1941, covers fewer than 500 pages, and quorums were often difficult to raise. The Administration declined to send major new proposals (such as a defense production board, aid to Britain, new taxes, and an increase in the debt limit) to Capitol Hill until the 77th Congress convened in January. Work was impeded also because both the House and Senate had to meet in substitute quarters while their chambers in the Capitol underwent repairs. However, Congress did sustain the veto of a measure to limit regulatory agency powers as well as publish a committee report on sabotage of the defense effort.

77th Congress, 2nd Session (1942)

In the wartime year of 1942, Congress again remained in session continuously through the election, adjourning *sine die* on December 16. Congress generally followed a regular schedule of daily meetings throughout the period except near the election, when it met every third day.

After an election that narrowed the Democratic majority, Congress declined action on a war powers bill and a bill to expand the Reconstruction Finance Corporation.[25] Other questions left to the next Congress included comprehensive national service legislation, placing a ceiling on net personal income through the tax code, curbing the powers of regulatory agencies, and planning for censorship of communications with U.S. territories. A measure to abolish poll taxes passed the House but came to no resolution because of a filibuster in the Senate.

Congress did pass legislation to adjust overtime pay for government workers and to provide for the military draft of 18- and 19-year-old men (although Congress deferred deciding whether to require a full year's training before sending them into combat).

By mid-December, quorums became difficult to obtain, and leaders of both parties agreed that nothing further could be brought up before the start of the 78th Congress in January 1943.

78th Congress, 2nd Session (1944)

Two years later, with World War II still in progress, Congress recessed for the national party conventions and recessed again for the elections. The latter recess began on September 21, 1944. Congress returned on November 14 and remained in session until December 19. Accordingly, 1944 marks the first instance after ratification of the Twentieth Amendment of a separate and distinct meeting of Congress during its lame duck period.

Among the issues facing the post-election session were questions of peacetime universal military training, extension of the War Powers Act[26] and the reciprocal trade system, a scheduled increase in Social Security taxes, and a rivers and harbors appropriations bill. Congress also debated congressional reform issues, including restructuring the committee system and increasing congressional pay. Postwar reconstruction and a renewal of domestic programs were also mentioned as possible subjects for action.

Ultimately, Congress deferred several issues until the start of the 79th Congress, including universal military training, the Bretton Woods monetary agreements, the Reciprocal Trade Act, and changes to the Social Security system. Action on several other measures could not be completed, including a rivers and harbors bill, a Senate-passed bill making major changes in

[25] The war powers legislation related to the conduct of World War II and has no connection with the War Powers Resolution (P.L. 93-148, 87 Stat. 555, 50 U.S.C. 1541-1548) enacted in 1973 to regulate commitments of U.S. armed forces abroad.

[26] Like the measure referred to in the previous note, this legislation related to the conduct of World War II and has no connection with the contemporary War Powers Resolution.

congressional procedures, and a pay increase for postal workers. A bill delaying the Social Security tax increase was enacted, however, as were a renewal of the War Powers Act and a bill increasing the congressional clerk-hire allowance. In addition, the Senate confirmed the nomination of Edward R. Stettinius Jr. as Secretary of State.

80th Congress, 2nd Session (1948)

Congress recessed in June 1948, before the national party conventions, with the intention of returning only on December 31 to bring the 80th Congress to a formal conclusion. During the convention recess, however, President Harry Truman called Congress back in extraordinary session to deal with a series of legislative priorities he considered urgent.[27] Since the reconvening occurred before the election, it did not produce a lame duck session.

Congress met pursuant to the President's call from July 27 to August 7 but then recessed again under the same terms as before. While the adjournment resolution enabled the majority leadership to reconvene Congress early, if necessary, Congress met again only on December 31.[28] This session, the shortest lame duck session under the Twentieth Amendment, met for just under an hour and a half, then adjourned *sine die*.

During the brief session, both chambers approved a measure extending for 60 days the life of the Commission on Organization of the Executive Branch of Government (the Hoover Commission). The Senate also extended for 30 days the life of the Special Small Business Committee, and both houses swore in new Members elected or appointed to full unexpired terms.

81st Congress, 2nd Session (1950-1951)

With the Korean War at a critical juncture in fall 1950, congressional leaders announced in late September that after the election Congress would reconvene in late November. Until November, Congress would be available to meet should the President call an emergency session. Congress recessed on September 23 and convened for the lame duck session on November 27.

As the lame duck session met, Chinese troops crossed into Korea, and General Douglas MacArthur warned Congress that the United Nations faced "an entirely new" war in the region. The Korean War and the possible use of atomic weapons dominated congressional attention through the session. Nevertheless, President Truman presented congressional leaders with a list of 18 proposals, including five he described as of "greatest urgency." The five included several measures favored by congressional leaders: aid to Yugoslavia and supplemental appropriations for

[27] According to some political observers, the President called Congress into special session for political, not policy, reasons. Steve Neal, ed., *HST: Memories of the Truman Years* (Carbondale, IL: Southern Illinois University Press, 2003), pp. 209-229. The special session was nicknamed the "Turnip Day Session" since President Truman, a Missouri native, called Congress into session the day Missouri farmers traditionally sowed their turnips. William L. Batt Jr., "Origin of the 1948 Turnip Day Session of Congress," *Presidential Studies Quarterly*, vol. 29, no. 1 (March 1999), pp. 80-83.

[28] Both the adjournment resolution in June and August gave the majority leaders the power to reconvene Congress "whenever, in their opinion, the public interest shall warrant it." *Senate Journal*, 80th Cong., 2nd session (June 18, 1948), p. 577. This provision, which gave power to the majority without minority party consultation, sparked criticism in debate. However, no debate explained why Congress needed to reconvene on December 31. The 80th Congress, led by Republicans, was often at odds with the Democratic President Truman, and the conflict increased in the months before the presidential election in November 1948. Had the Republican leaders adjourned *sine die* prior to the election, with no ability to reconvene early, they would have faced a greater chance of pocket vetoes or recess appointments. See Susan M. Hartmann, *Truman and the 80th Congress* (Columbia, MO: University of Missouri Press, 1971).

defense and atomic energy. The President also asked Congress to act on an excess profits tax, an extension of federal rent controls, and statehood for Hawaii and Alaska.[29]

Congress stayed in session through the New Year. It approved the rent control extension and a $38 million famine relief bill for Yugoslavia. In the week before the Christmas holidays, it completed work on an $18 billion defense supplemental appropriations bill, the excess profits tax, and a civil defense program.

Efforts to obtain votes on statehood for Alaska and Hawaii were abandoned after a week of intermittent Senate debate. The 81st Congress adjourned *sine die* on January 2, 1951, and the 82nd Congress convened the next day.

83rd Congress, 2nd Session (1954)

The 1954 lame duck session marked the first time only one chamber returned to session after an election since the ratification of the Twentieth Amendment. That year, the House adjourned *sine die* on August 20, while the Senate recessed on that date and then reconvened on November 8. The Senate returned solely to consider the censure of Senator Joseph McCarthy for improprieties committed in the course of his five-year inquiry into alleged communist influence in the federal government.

The Senate select committee charged with investigating the McCarthy case submitted its censure resolution on November 9. The full Senate approved the first count of the two-count resolution on December 1, and final action was completed the following day. Press reports speculated that the Senate might consider matters other than the McCarthy censure resolution, including a number of pending treaties and nominations, but the Senate took action only on the censure resolution and adjourned on December 2.

91st Congress, 2nd Session (1970-1971)

In 1970, congressional leaders called a post-election session for the first time in more than 16 years to complete action on a list of pending legislation, including electoral reform, the Family Assistance Plan (the Nixon Administration's principal welfare reform proposal), occupational safety and health, equal rights for women, manpower training, and funds for the supersonic transport plane (SST). Seven regular appropriations bills also remained to be enacted.

Congress stayed in session from November 16 until January 2, 1971. It kept largely to the agenda the congressional leadership had set before the recess in October but failed to approve many Administration proposals, including the Family Assistance Plan.[30] That bill, with other controversial measures, had been attached to a Social Security bill in the Senate. The SST received interim funding, not the funding requested. President Richard Nixon strongly criticized what he termed "major failures" of the lame duck session.

Congress did complete work on two of the seven regular appropriations bills and a measure dealing with foreign aid and foreign military sales. It also passed the Clean Air Act Amendments of 1970, which established deadlines for the reduction of certain pollutants from new

[29] "Congress Returns, Faces 'New War,'" *Congressional Quarterly Weekly Report*, vol. 8, week ending December 1, 1950, p. 1305.

[30] "Much Unfinished Business Faces 'Lame Duck' Session," *Congressional Quarterly Weekly Report*, vol. 28, October 23, 1970, pp. 2638-2639; "Nixon Support to Be Targeted in Lame Duck Session," *Congressional Quarterly Weekly Report*, vol. 28, November 13, 1970, pp. 2783-2785.

automobiles, and a major housing bill, which included a new program of federal crime insurance and created the Community Development Corporation.

President Nixon vetoed four measures during the lame duck session, including a $9.5 billion federal manpower training and public service employment bill. Congress did not override any of these vetoes.

93rd Congress, 2nd Session (1974)

The 93rd Congress was marked by extraordinary events—the Watergate investigations, the resignation of Vice President Spiro Agnew, the nomination and confirmation of Gerald Ford to be Vice President, and the resignation of President Nixon and succession of President Ford. Consequently, Congress had to delay consideration of major legislation as it considered its response to crises in the executive branch. On November 18, 1974, Congress reconvened in an effort to clear a long list of legislative priorities.

Earlier, congressional leaders indicated that only the most critical bills would be considered, including approval of the nomination of Nelson Rockefeller to be Vice President. However, President Ford greeted the returning Congress with a 10-page list of legislation that he wanted passed before the session expired.[31]

Before its adjournment on December 20, Congress approved the Rockefeller nomination but overrode presidential vetoes of a vocational rehabilitation bill and a measure amending the Freedom of Information Act. Congress also approved, and the President signed, a bill that nullified a prior agreement giving former President Nixon control over the tapes and papers of his Administration.

In other actions, Congress approved a long-delayed trade reform bill giving the President broad authority to negotiate trade agreements, act on trade barriers, and provide import relief to workers, industries, and communities. It also established a federal policy for research and development of non-nuclear sources of energy and cleared legislation making continuing appropriations for federal agencies whose regular appropriations had not been enacted.

96th Congress, 2nd Session (1980)

In 1980, Congress postponed action on budget matters until the lame duck session. Large Republican gains on election day, however, were expected to complicate consideration of budget reconciliation and several major appropriations bills, as well as landmark environmental legislation.

Meeting from November 12 to December 16, 1980, Congress adopted a budget resolution, a budget reconciliation measure, and five regular appropriations bills, although one was subsequently vetoed. It approved a second continuing resolution to continue funding for other parts of the government. Congress also passed an Alaska lands bill, a "superfund" bill to help clean up chemical contamination, a measure extending general revenue sharing for three years, and a measure that made disposal of low-level nuclear waste a state responsibility. Defense-

[31] U.S. President (Ford), "Repeating Desire of the President of the United States for Partnership with the Congress—Message from the President of the United States (H.Doc. No. 93-334)," *Congressional Record*, vol. 120, November 18, 1974, pp. 36274-36278. See "Congress Gets Ford Request, Overrides Vetoes," *Congressional Quarterly Weekly Report*, vol. 32, November 23, 1974, pp. 3151-3152.

related legislation made changes to military pay and benefits and gave authority to the President to call 100,000 military reservists to active duty without declaring a national emergency.

97th Congress, 2nd Session (1982)

In 1982, President Ronald Reagan urged congressional leaders to reconvene Congress after the congressional election in order to consider unresolved appropriations bills.[32] The Senate met from November 30 to December 23 and the House from November 30 to December 21.

Congressional leaders indicated that they would finish nine of 10 outstanding money bills. By the end of December, Congress had completed four. To fund the remaining government operations, Congress passed a large continuing resolution but had to remove a $5.4 billion jobs program after the President threatened to veto the legislation.

The lame duck session was acrimonious in both chambers but especially in the Senate, where frequent filibusters caused some all-night sessions. The Senate voted on eight cloture motions in December, an unusually high number for this era. The most contentious filibuster came late in the month over a measure to increase the gasoline tax. The measure was approved two days before Christmas.

In other decisions, Congress enacted a controversial 15% pay raise for Members and passed a long-sought nuclear waste disposal bill. However, an immigration reform bill, favored by the White House and the congressional leadership, stalled when opponents filed hundreds of amendments designed to slow chamber action. The leadership was eventually forced to pull the bill from the House floor. Congress also refused to fund production and procurement of the first five MX intercontinental missiles, the first time in recent history that either house of Congress had denied a President's request to fund production of a strategic weapon.

103rd Congress, 2nd Session (1994)

In 1994, Congress recessed on October 8 and then reconvened on November 29 for the sole purpose of passing a bill implementing a new General Agreement on Tariffs and Trade. Although the bill received strong support in both chambers during the regular session, opponents in the Senate had kept the measure from reaching a vote on the floor. In the lame duck session, the House passed the bill on November 29 and the Senate on December 1. Both chambers then adjourned *sine die*.

105th Congress, 2nd Session (1998)

In 1998, both the House and Senate adjourned *sine die* on October 21, 1998. However, the adjournment resolution (H.Con.Res. 353) gave the Speaker contingent authority to reconvene the House. The House planned to return in December to consider the impeachment of President Bill Clinton.

Meanwhile, the November election resulted in unexpected Republican losses. Consequently, Speaker Newt Gingrich announced his decision to resign as leader. While he remained Speaker for the duration of the Congress, the announcement made him a lame duck in the fullest sense of the term.[33]

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[32] Dale Tate, "Reagan Requests Lame-Duck Session on '83 Spending Bills," *Congressional Quarterly Weekly Report*, vol. 40, September 18, 1982, p. 2337.

[33] Guy Gugliotta and Juliet Eilperin, "Gingrich Steps Down in Face of Rebellion," *Washington Post*, November 7, 1998, p. A1.

During this uncertain period, the House convened on December 17, 1998, to consider a resolution of impeachment (H.Res. 611). That day, the House also agreed to a resolution expressing support for members of the armed forces engaged in the Persian Gulf.

On December 19, the House adopted the impeachment resolution's Articles I and III. In doing so, the House impeached a President for the first time since Andrew Johnson (1868). The House also passed a resolution appointing House managers for the Senate impeachment trial. The chamber then adjourned *sine die*.

106th Congress, 2nd Session (2000)

The 2000 lame duck session was marked by a presidential election that remained unresolved until December as well as an unusually short election break. The House and Senate recessed a few days before the election, then returned on November 13 and 14, respectively, to consider unresolved appropriations bills.[34] On November 14, Congress approved a short-term continuing resolution and the District of Columbia Appropriations Act before putting itself into recess once more.

After reconvening on December 5, Congress adopted a series of five short-term continuing resolutions while leaders negotiated the FY2001 appropriations measures. Finally, on December 15, both chambers agreed to the conference report on the omnibus appropriations bill. Congress then adjourned *sine die.*

During the lame duck session, Congress also cleared the Presidential Threat Protection Act, the Striped Bass Conservation Act, and the Intelligence Authorization Act. It also sent President Clinton a bankruptcy reform measure, which the President subsequently pocket vetoed.

107th Congress, 2nd Session (2002)

Congress met intermittently in *pro forma* sessions during the pre-election period in 2002 but returned to a full schedule of business on November 12. The House and Senate convened to finish work on 11 appropriations bills and consider legislation creating the Department of Homeland Security (DHS), a top priority for President George W. Bush. Before the lame duck session, the House passed a DHS bill, the Senate passed a similar version of the measure on November 19, and the House agreed to the Senate amendment on November 22. President Bush signed the bill into law on November 25.

Congress was unable to resolve its differences on the appropriations bills. Instead, it adopted the fifth of a series of continuing resolutions on November 19. This measure funded the government at FY2002 levels through January 11, 2003. The Defense Appropriations bill and Military Construction Appropriations bill were the only appropriations measures completed by Congress in 2002.

In addition to the DHS, Congress adopted several other significant measures, including the Defense Authorization Act, the Intelligence Authorization Act, and measures regulating terrorism insurance and seaport security. The Senate adjourned *sine die* on November 20 and the House on November 22.

[34] For the purposes of this report, the Senate's lame duck session is considered to have commenced on December 5, because this was the first day of continuous sessions following the election.

108th Congress, 2nd Session (2004)

In 2004, Congress convened a lame duck session to consider appropriation bills and the debt limit. The post-election environment was expected to facilitate action on an omnibus appropriations measure that limited domestic discretionary spending, an Administration priority. On November 20, Congress cleared the omnibus measure but could not reach a final agreement on a budget resolution that, among other actions, would have increased the debt limit. Instead, Congress used a freestanding measure to raise the limit.

The House and Senate also reauthorized the Individuals with Disabilities Education Act, placed a moratorium on internet taxation, and authorized satellite television systems to carry network programming. Policy and political disagreements, however, doomed several other reauthorizations, including welfare reform, a highway bill, and the renewal of the assault weapons ban.

At the same time, the House and Senate remained in conference to resolve legislation to consolidate intelligence activities under a new national director, as recommended by the 9/11 Commission. During the lame duck session, the Administration persuaded House conferees to accept modifications in provisions to (1) maintain military control over its own intelligence, (2) keep intelligence funding confidential, and (3) control immigration. On December 7 and 8, the House and Senate, respectively, approved the conference report and adjourned *sine die*.

109th Congress, 2nd Session (2006)

Following an election that gave the Democrats prospective control of the House and Senate, the sitting Congress reconvened on November 13, 2006, largely to consider several FY2007 appropriations bills.[35] Instead of passing regular bills, Congress opted to fund the government through two successive extensions of a continuing resolution, with H.J.Res. 100 continuing funding through December 8 and H.J.Res. 102 continuing funding through February 15, 2007. Congress also cleared a package of tax benefit extensions, including those for research and development and for education, which was paired with a trade package that included benefits for undeveloped countries and agreements with Vietnam.

Other notable legislation included a bill that allowed President George W. Bush to negotiate an agreement with India on the development of nuclear power. In addition, Congress passed a bill to overhaul the U.S. Postal Service and a Veterans Affairs package authorizing funds for major medical projects and information technology upgrades. Finally, the Senate confirmed Robert Gates as Secretary of Defense to replace Donald Rumsfeld, who stepped down the day following the elections. Both the House and the Senate adjourned *sine die* on December 9.

110th Congress, 2nd Session (2008-2009)

The 110th Congress reconvened on November 6, 2008, just two days after the election that would afford Democrats wider majorities in both the House and Senate and ushered in a new Democratic President. The lame duck session featured a series of *pro forma* sessions that were intended to foreclose opportunities for outgoing President George W. Bush to make recess appointments to federal offices.[36]

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[35] Steven T. Dennis and John M. Donnelly, "A Few Miles to Go Before the 109th Sleeps," *Congressional Quarterly Weekly Report*, vol. 64, November 13, 2006, p. 2984.

[36] Kathleen Hunter, "Senators Maintain Vigil Against Recess Appointments," *CQ Today*, December 12, 2008, p. 1.

The Senate met for substantive business on only seven days during the post-election period. The House, which had adjourned *sine die*, reconvened on November 19 pursuant to authority granted to its leadership in the adjournment resolution. However, it met on only five days during the post-election period.

The main legislative business concerned disruptions to the financial system, which became evident during the campaign period. Before the election, Congress had enacted P.L. 110-343, establishing a $700 billion package of aid to the financial services industry. In the lame duck session, Congress considered legislation to assist America's three largest automaking companies.

On December 10, the House passed H.R. 7321, which provided $14 billion in loans to automakers by using funds from an existing program. However, Senate opposition prevented a vote on the measure. (Incoming President Barack Obama subsequently provided $13.4 billion in loans to the automakers out of funds from the financial industry aid package.)

During the second half of December, the Senate met in *pro forma* sessions, while the House recessed. On January 2 and 3, the Senate and House, respectively, returned to adjourn *sine die.*

111th Congress, 2nd Session (2010)

During the 2010 election break, the House recessed, while the Senate engaged in *pro forma* sessions to prevent President Obama from making recess appointments and to prevent pending nominations from being returned to the White House.[37] Once Congress returned for business, no *pro forma* sessions occurred, and a number of high-profile bills received action.

Congress enacted the National Defense Authorization Act (H.R. 6523), the FDA Food Safety Modernization Act (H.R. 2751), and the Don't Ask, Don't Tell Repeal Act of 2010 (H.R. 2965). Also during the lame duck session, the Senate confirmed a total of 19 federal judges.

Perhaps the most significant issue that was negotiated throughout the lame duck session was the extension of certain revenue provisions, including the 2001 and 2003 income tax cuts (P.L. 107-16 and P.L. 108-27). Enacted during the final week of the session, H.R. 4853 extended these revenue provisions for two years, instituted a temporary payroll tax reduction, and provided jobless benefits for 13 additional months. FY2011 appropriations remained uncompleted. Congress instead adopted a series of continuing resolutions (P.L. 111-290, P.L. 111-317, and P.L. 111-322) to provide funding through March 4, 2011.

On December 22, the last day of the session, the Senate and House passed the James Zadroga 9/11 Health and Compensation Act. This bill, H.R. 847, would provide health benefits to certain first responders who were exposed to toxic materials as a result of the September 11, 2011, terrorist attacks on the World Trade Center. In addition, the Senate voted 71-26 to approve ratification of New START, an arms control treaty with Russia.[38]

112th Congress, 2nd Session (2012-2013)

After an election break consisting of *pro forma* sessions, Congress reconvened on November 13 to consider several major bills. The Senate also confirmed a total of 66 civilian nominations, 16 of which were federal judges.

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[37] Brian Friel, "Senate to Block Recess Appointments," *CQ Today Online News,* September 29, 2010.

[38] For further information on this treaty, see CRS Report R41219, *The New START Treaty: Central Limits and Key Provisions,* by Amy F. Woolf.

Congress adopted the FISA Amendments Act Reauthorization Act of 2012 (P.L. 112-238), the National Defense Authorization Act (P.L. 112-239), and the Intelligence Authorization Act (P.L. 112-277).[39] Otherwise, much of the session was devoted to negotiations over expiring tax and spending policies as well as the sequestration that was scheduled to occur pursuant to the Budget Control Act of 2011 (BCA; P.L. 112-25) on January 2, 2013.

On January 2, Congress enacted the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240). This bill addressed expiring revenue provisions, the alternative minimum tax, and a number of temporary tax provisions (also known as "tax extenders"). The spending provisions in ATRA included an extension of certain unemployment benefits through 2013, a postponement in the reduction of Medicare payments to physicians under the Sustainable Growth Rate system through the same period, and an extension of the 2008 farm bill through 2013.[40] ATRA also postponed the scheduled BCA sequestration (across-the-board spending cuts) until March 1, 2013.

The lame duck session did not need to address regular appropriations bills, because the first continuing resolution of the fiscal year (P.L. 112-175) was not set to expire until March 27, 2013.[41] However, Congress did debate supplemental appropriations to assist with Hurricane Sandy recovery efforts.[42] On December 28, the Senate passed supplemental appropriations (H.R. 1), but the House opted to postpone consideration until the beginning of the 113th Congress.[43] The Senate and House adjourned *sine die* on January 2 and 3, respectively.

113th Congress, 2nd Session (2014-2015)

The 2014 lame duck session followed an election that gave the Republican Party control of the succeeding Congress. The GOP took back the Senate and increased its majority in the House. In the midst of these changes in party balance, a vast omnibus appropriations bill remained unresolved.[44]

The Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83) combined several appropriations bills into one omnibus bill, including a continuing resolution. The "CRomnibus" funded multiple agencies through the end of FY2015 and provided continuing appropriations for DHS through February 27, 2015.[45] While both chambers debated the bill, Congress extended its

[39] "Partisan Combat Prevailed in 112th, Fiscal Cliff Narrowly Avoided," in *CQ Almanac 2012*, 68th ed., (Washington, DC: CQ-Roll Call Group, 2013), pp. 1/3-1/8.

[40] For information on these revenue and spending elements of ATRA, see CRS Report R42884, *The "Fiscal Cliff" and the American Taxpayer Relief Act of 2012*, coordinated by Mindy R. Levit.

[41] For information on continuing resolutions and FY2013 appropriations, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Practices*, coordinated by Kate P. McClanahan.

[42] For information on enacted supplemental appropriations to address Hurricane Sandy, see CRS Report R42991, *Analysis of the Sandy Recovery Improvement Act of 2013*, by Jared T. Brown, Francis X. McCarthy, and Edward C. Liu.

[43] For a discussion of these events, see Kerry Young and Emily Holden, "Senate-Passed Sandy Aid Stalls in House," *CQ Weekly*, December 31, 2012, p. 2365.

[44] "Low Production, High Partisanship Plague the Second Year of the 113th," *CQ Almanac 2014*, 70th ed., (Washington, DC: Roll Call Group, 2015), pp.1/3-1/5.

[45] Niels Lesniewski and Humberto Sanchez, "Senate Avoids Shutdown, Passes Cromnibus in Bipartisan Vote," *CQ News*, December 13, 2014. H.J.Res. 124 (113-164), "The Continuing Appropriations Resolution, 2015," provided FY2015 appropriations to federal agencies until December 11, 2014. H.J.Res. 130 and H.J.Res. 131 amended this resolution by substituting the end date from December 11 to December 13 and December 17, respectively.

fiscal deadline by adopting short-term continuing resolutions. Then, on December 13, the Senate passed the final version of H.R. 83, avoiding a repeat of the 2013 partial government shutdown.[46]

Congress adopted additional major legislation: the National Defense Authorization Act (H.R. 39) and the Tax Increase Prevention Act (H.R. 5771), which, among its provisions, approved tax credits for corporate spending on research and development.[47] Both chambers passed the No Social Security for Nazis Act (H.R. 5739), while the House cleared the final versions of the Government Reports Elimination Act of 2014 (H.R. 4194) and the Chesapeake Bay Accountability and Recovery Act of 2014 (S. 1000). In its final two days in session, the Senate also confirmed 71 executive nominations (out of the 252 nominations approved during the lame duck session). On December 16, the Senate adjourned *sine die*; the House recessed and returned on January 2 for its final adjournment.

Other measures received extensive debate during the lame duck session but did not pass both chambers. Failed legislation included bills that would have granted the President "fast-track" trade negotiating authority, approval of the Keystone XL pipeline, reauthorization of the terrorism risk insurance program, and taxes on certain online commerce.[48]

114th Congress, 2nd Session (2016-2017)

The 2016 election afforded the Republican Party control of the White House and maintained its control of the House and Senate. Under these circumstances, Congress reconvened on November 14 to consider appropriations, Iran sanctions, medical research funding, and the pending National Defense Authorization Act (NDAA).

On November 15, the House passed the Iran Sanctions Extension Act (H.R. 6297). The Senate adopted it on December 1. President Obama allowed the bill to become law without his signature.[49]

President Obama urged passage of another major bill, the 21st Century Cures Act (H.R. 34). The legislation authorized significant funding for medical research as well as an accelerated review process for new drugs and medical devices. The Senate adopted the final version on December 7 (P.L. 114-255 was signed into law on December 13).[50]

The House and Senate formed a conference committee to work out its differences on the NDAA (S. 2943). Final approval came on December 8, when the Senate voted 92-7 to approve the conference report (P.L. 114-840).

The Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028), extended the funding from an earlier continuing resolution, which was set to expire at midnight on December 9. Like the first continuing resolution, H.R. 2028 continued appropriations for all government agencies except those related to military construction and Veterans Affairs. In addition to its funding maintenance provisions, this measure addressed the Flint, Michigan, drinking water crisis. Policy and political disagreements, however, delayed the Senate's approval

[46] Ashley Parker and Robert Pear, "Ending Days of Chaos at the Capitol, Senate Passes $1.1 Trillion Spending Bill," *New York Times*, December 14, 2014, p. A28.

[47] "Low Production, High Partisanship Plague the Second Year of the 113th"; John M. Donnelly, "Congress Concludes with Confirmations, Tax Credits," *CQ Roll Call*, December 17, 2014, pp. 1-5.

[48] "Low Production, High Partisanship Plague the Second Year of the 113th"; Sarah Chacko, "Senate Closes 113th Congress," *CQ Roll Call*, December 17, 2014, pp. 1-6.

[49] Reuters, "Iran Sanctions Extension Act to Become Law Without Obama's Signature: White House," December 15, 2016.

[50] "CQ Key Votes 2016: Senate," *CQ Magazine*, March 27, 2017.

of the resolution, threatening a partial government shutdown. Finally, late on December 9, the Senate passed H.R. 2028, funding the government through April 28, 2017 (P.L. 114-254).

The bipartisan vote on the continuing resolution occurred during a 20-hour, all-night Senate session, spanning December 9 and 10. Following the continuing resolution's consideration, the Senate confirmed 17 executive nominations (out of the 117 confirmed during the lame duck session). Both the House and Senate met in *pro forma* sessions for the rest of December, returning on January 3 to adjourn *sine die* minutes before the start of the 115th Congress.

115th Congress, 2nd Session (2018-2019)

Following the 2018 mid-term election, Democrats reclaimed the House majority. In the Senate, Republicans increased their majority by two seats. The change in House majority party, as well as opposition to President Trump's efforts to secure funding for the wall along the southern border, led to a divisive lame duck session, which ended in a partial government shutdown and lapses in certain program authorizations.

On November 13th, Congress reconvened to consider (among other legislation): reauthorization measures, a major criminal justice reform bill, and continuing appropriations. Early in the post-election session, the Senate adopted S. 140, the Frank LoBiondo Coast Guard Authorization Act of 2018, reauthorizing the Coast Guard for two years. The House approved the bill, as amended by the Senate, and it was signed into law on December 4 as P.L. 115-282.

In comparison to the Coast Guard legislation, the farm bill (H.R. 2) underwent a more contentious reauthorization process. In particular, some senators objected to Title IV, which included significant changes to the eligibility requirements in the Supplemental Nutrition Assistance Program (SNAP). Prior to the election, the House and Senate formed a conference committee to resolve the differences between the House version of the bill and the Senate's amendment in the nature of a substitute. In mid-December, the House and Senate agreed to the conference report, which did not include the expanded SNAP work requirements, and the Agriculture Improvement Act of 2018 became public law (P.L. 115-334) on December 20.[51]

The First Step Act (S. 756), reforming policies related to federal sentencing and the Bureau of Prisons, received bipartisan support in the House and Senate.[52] The Senate approved S. 756, as amended, on December 18; the House provided final approval on December 20; and, on December 21, the President signed it into law (P.L. 115-391). On the same day, the Congressional Accountability Act (CAA) of 1995 Reform Act became law (P.L. 115-397). This bill (S. 3749) altered procedures related to CAA claims filed against congressional offices. This included requiring Members of Congress, under certain circumstances, to repay the Treasury for settlements in connection with claims of sexual harassment or other CAA discrimination or retaliation violations.[53]

Throughout the lame duck session, White House and congressional negotiations focused on continuing appropriations.[54] On December 7, the President signed H.J.Res. 143 (P.L. 115-298), a

[51] See CRS Report R45525, *The 2018 Farm Bill (P.L. 115-334): Summary and Side-by-Side Comparison*, coordinated by Mark A. McMinimy.

[52] See CRS Report R45558, *The First Step Act of 2018: An Overview*, by Nathan James.

[53] See CRS Legal Sidebar LSB10384, *The Congressional Accountability Act of 1995 Reform Act: An Overview*, by Christine J. Back.

[54] CRS Report R45906, *Congressional Action on FY2019 Appropriations Measures: 115th and 116th Congresses*, by Kate P. McClanahan and Justin Murray.

continuing resolution (CR) that provided funding until December 21 for the federal agencies and programs not covered by the five FY2019 appropriations bills enacted earlier in the year.

On December 19, the Senate approved H.R. 695. As amended by the Senate, the Department of Defense Appropriations Act, 2018 would have extended government funding for specified agencies until February 8, 2019. The House agreed to the Senate amendment on December 20, with a House amendment that added $5.7 billion in appropriations for construction of physical barriers at borders. Following discussions with Senate Democrats, Majority Leader McConnell determined that the Senate did not have the 60-vote margin necessary to invoke cloture on the House amendment and announced he would not bring the bill for a vote. The lack of a continuing resolution caused a partial government shutdown that lasted 34 full days and did not end until after the 116th Congress had convened.[55]

In addition to the funding gap, several programs experienced a gap in authorization. The extension of the Violence Against Women Act, Temporary Assistance to Needy Families (TANF), and the Land and Water Conservation Fund remained unaddressed during the lame duck session.[56] The House and Senate, however, did prevent a lapse in the National Flood Insurance Program by approving S. 3628, the National Flood Insurance Program Extension Act (P.L. 115-396) on December 21. This temporary authorization extended the program until May 31, 2019.[57]

Table 7. Summary of Measures Approved in Lame Duck Sessions, 1935-2018

		Selected Measures Approved	
Congress	**Year of Lame Duck**	**House**	**Senate**
76th	1940	Congress met on standby status during wartime; *pro forma* sessions	
77th	1942	military draft; overtime pay for government workers	
78th	1944	legislation related to war and military; rivers and harbors appropriations; Senate confirmation of Secretary of State nominee	
80th	1948	one-day session; legislation extending the Hoover Commission and Senate Special Small Business Committee	
81st	1950	Korean war issues; military defense supplemental appropriations; excess profits tax; a civil defense program; relief for Yugoslavia	
83rd	1954	**House not in session**	Senator McCarthy censure
91st	1970	regular appropriations bills; foreign aid; foreign military sales; Clean Air Act Amendments; housing; act creating the Community Development Corporation	
93rd	1974	post-Nixon resignation issues; Rockefeller nomination for Vice President; presidential veto overrides; trade reform; energy research; continuing resolutions (CR) to fund multiple federal agencies	
96th	1980	omnibus deficit reduction reconciliation measure; regular and CR appropriations; Alaska lands; superfund clean-up; revenue sharing; nuclear waste disposal; military benefits; military reserves policy	

[55] See CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*, by James V. Saturno.

[56] Kellie Mejdrich, "Unfinished Appropriations Work Piled High as Yuletide Awaits," *Roll Call*, December 17, 2018, https://www.rollcall.com/2018/12/17/unfinished-appropriations-work-piled-high-as-yuletide-awaits/.

[57] See CRS Insight IN10835, *What Happens If the National Flood Insurance Program (NFIP) Lapses?*, by Diane P. Horn.

Congress	Year of Lame Duck	Selected Measures Approved	
		House	**Senate**
97th	1982	regular and CR appropriations; gas tax; congressional pay raise; nuclear waste disposal	
103rd	1994	General Agreement on Tariffs and Trade	
105th	1998	Clinton impeachment resolution, Articles I and III approved; resolution appointing House managers for Senate impeachment trial	**Senate not in session**
106th	2000	omnibus appropriations; Presidential Threat Protection Act; Intelligence Authorization Act; environmental legislation; bankruptcy reform (pocket vetoed by the President)	
107th	2002	regular and CR appropriations; Department of Homeland Security; National Defense Authorization Act (NDAA); Intelligence Authorization Act; terrorism insurance; seaport security	
108th	2004	omnibus appropriations; Individuals with Disabilities Education Act reauthorization; internet tax moratorium; satellite television policy; intelligence activities consolidation	
109th	2006	CR appropriations; tax benefit extensions; trade agreements; India nuclear power negotiations; USPS overhaul; Veterans Affairs authorization for major medical projects; Senate confirmation of Secretary of Defense nominee	
110th	2008	some *pro forma* sessions to avoid recess appointments; auto bailout also considered but not adopted at this time	
111th	2010	CR appropriations; NDAA; FDA Food Safety Modernization Act; Don't Ask, Don't Tell Repeal Act; income tax cuts; unemployment benefits; health care benefits for 9/11 workers; Senate approved ratification of New START treaty with Russia	
112th	2012	FISA Amendments Act Reauthorization Act of 2012; NDAA; Intelligence Authorization Act; American Taxpayer Relief Act	
113th	2014	CR and omnibus appropriations; NDAA; Tax Increase Prevention Act; No Social Security for Nazis Act; Government Reports Elimination Act; Chesapeake Bay Accountability and Recovery Act; Tax Increase Prevention Act; Senate confirmed 252 nominees	
114th	2016	CR appropriations; Iran Sanctions Extension Act; 21st Century Cures Act; NDAA; Senate confirmed 117 nominees	
115th	2018	CR appropriations; Coast Guard Authorization Act of 2018; Agriculture Improvement Act of 2018 (Farm Bill); First Step Act of 2018; Congressional Accountability Act of 1995 Reform Act; National Flood Insurance Program Extension Act	

Sources: *Congressional Record, Congressional Quarterly Weekly Report, CQ Almanac, New York Times, Reuters.*

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Acknowledgments

This report is based on former CRS Specialist on Congress and the Legislative Process Richard S. Beth's CRS Report RL33677, *Lame Duck Sessions of Congress, 1935-2012 (74th-112th Congresses)*. Richard C. Sachs, then-Specialist in American National Government in CRS, and Momoko Soltis, then-Analyst on Congress and the Legislative Process in CRS, also contributed to the earlier report.

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