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SUMMARY

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Lame Duck Sessions of Congress Following a Majority-Changing Election: In Brief

"Lame duck" sessions of Congress take place whenever one Congress meets after its successor is elected but before the term of the current Congress ends. Their primary purpose is to complete action on legislation. They have also been used to prevent recess appointments and pocket vetoes, to consider motions of censure or impeachment, to keep Congress assembled on a standby basis, or to approve nominations (Senate only). In recent years, most lame duck sessions have focused on program authorizations, trade-related measures, appropriations, and the budget.

From 1940 to 2016, there were 21 lame duck sessions. Seven followed an election that switched the majority party in one or both chambers. That is, the party that controlled the House or Senate during the lame duck session did not retain its majority into the next Congress. These sessions occurred in 1948, 1954, 1980, 1994, 2006, 2010, and 2014.

Three lame duck sessions between 1940 and 2016 followed a majority-changing midterm election during a President's first term of office. In each of these sessions (1954, 1994, 2010), the same party had controlled the White House, House, and Senate prior to the election. This report provides additional information on the 1954, 1994, and 2010 lame duck sessions. The most recent lame duck session, which commenced on November 13, 2018, is not included in the data presented.

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Introduction

A "lame duck" session of Congress takes place whenever one Congress meets after its successor is elected but before the term of the current Congress ends. From 1940 to 2016, there were 21 lame duck sessions.[1] The most recent lame duck session, which commenced on November 13, 2018, is not included in the data presented in this report.

Of the 21 lame duck sessions examined, seven followed an election that switched the majority party in one or both chambers. That is, the party that controlled the House or Senate during the lame duck session did not retain its majority into the next Congress. **Table 1** displays these sessions, occurring in 1948, 1954, 1980, 1994, 2006, 2010, and 2014.[2]

Like the 2018 lame duck session, three lame duck sessions (1940 to 2016) followed a majority-changing midterm election during a President's first term of office. In each of these sessions (1954, 1994, 2010), the same party had controlled the White House, House, and Senate prior to the election. This report provides additional information on the 1954, 1994, and 2010 lame duck sessions.

Reasons to Hold a Lame Duck Session

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

Critics of lame duck sessions object to recently defeated Members or parties managing and acting on the legislative agenda. Proponents consider these post-election sessions to be useful for lawmaking at the end of a Congress. In the last two decades, lame duck sessions have become a routine occurrence during even-numbered years, regardless of which party is in the majority before the election.

Background Information

Prior to 1933, the last regular session of Congress was always a lame duck session. However, the 20th Amendment to the Constitution changed the dates of the congressional term from beginning and ending on March 4 of odd-numbered years to January 3 of odd-numbered years. As a result,

[1] The information presented is based on CRS Report R45154, *Lame Duck Sessions of Congress, 1935-2016 (74th-114th Congresses)*. For session data, the report's contributors consulted the *Congressional Record*, the *Congressional Directory*, and the House and Senate session calendars. Sources on legislation included the *Congressional Quarterly Weekly Report*, *CQ Almanac*, *CQ Magazine*, *The New York Times*, and Reuters.

[2] The 2000 election produced a Senate evenly divided between the parties. From January 3 to January 20, 2001, the Republicans temporarily lost their majority as outgoing Vice President Al Gore retained his ability to cast a tie-breaking vote in his role as President of the Senate. On January 20, Republican Vice President Richard Cheney was sworn in, giving Senate control back to the Republicans. Due to subsequent Senate membership changes, the majority status switched two more times in the 107th Congress (2001-2002). During most of the 2000 lame duck session, however, the results of the presidential election remained uncertain, so both parties operated without knowing which one would eventually assume the majority. For this reason, the 2000 lame duck is not included in the number of lame duck sessions that occurred after a change in majority party. See U.S. Senate, "Party Division," https://www.senate.gov/history/partydiv.htm.

lame duck sessions are no longer an automatic feature of Congress. Today, lame duck sessions consist of any portion of a regular second session that falls after the November election in an even-numbered year and before the next Congress commences on January 3.

Between 1935 and 1998, one or both houses held a lame duck session in 12 of the 32 Congresses (74th-105th).[3] In contrast, both houses held a lame duck session in every Congress from the 106th through the 114th (2000-2016).[4] These sessions are now an anticipated—although not guaranteed—biennial event.

Length and Timing of Lame Duck Sessions, 1935-2016

In Congresses featuring a lame duck session, the preceding election break spanned an average of six to seven weeks and generally began by early to mid-October.[5] During the break, the chambers either were in recess or held a series of *pro forma* sessions.[6]

Lame duck sessions begin once regular, consecutive daily sessions resume after an election break. Typically, sessions have started around the third week of November. Between 1935 and 2016, the average session length was about one calendar month. Within that time frame, the House held an average of 15 daily sessions, and the Senate held an average of 18 daily sessions.

The shortest lame duck sessions featured a limited agenda. For instance, in 1998, the House spent three days considering the President Clinton impeachment proceedings. In 1948, the House and Senate met for one day, mainly to wrap up the 80th Congress, and in 1994, the Members spent the two-day lame duck session considering a tariff and trade agreement. The 1948 and 1994 sessions took place after an election that switched the majority party. However, the other majority-change lame duck sessions were similar in length to the overall average.

Lame Duck Sessions Following a Majority Party Election Loss, 1935-2016

From 1935 to 2016, seven lame duck sessions followed an election that changed the majority party in one or both chambers of Congress. Two occurred during a presidential election year (1948, 1980), two followed a midterm election during the *second* term of a President (2006 and 2014), and three followed a midterm election during the *first* term of a President (1954, 1994, 2010).

Table 1 displays lame duck sessions that convened after an election that changed the majority party in either the House or the Senate. The table identifies the number of seats the majority party lost as well as the key measures approved during the post-election periods.

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[3] In 1998, just the House returned to consider articles of impeachment against President Clinton.

[4] Since 1935, lame duck sessions have occurred in the following years: 1940, 1942, 1944, 1948, 1950, 1954, 1970, 1974, 1980, 1982, and 1994, and in every election year from 1998 to the present.

[5] For the purposes of this report, the election break is identified as the number of calendar days between the last day of consecutive sessions prior to the election and the first day of consecutive sessions after the election.

[6] Two exceptions occurred in 1998 and 2008. In those years, the Speaker used contingent authority to reconvene the House after a conditional *sine die* adjournment. *Pro forma* sessions are typically short and feature no legislative business. They are used to satisfy the constitutional requirement that neither house shall adjourn for longer than three days "without the consent of the other." In 2018, the House concluded its pre-election legislative business on September 28, the Senate on October 11. Before the lame duck session commenced on November 13, 2018, the two chambers met in *pro forma* sessions on Tuesdays and Fridays. See U.S. Constitution, Article I, Section 5, and CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen.

Midterm Election, First Term of President (1954, 1994, 2010)

In each of the lame duck sessions that followed a midterm election in a President's first term in office, the same party controlled the White House, the House, and the Senate. Below, more information is provided on the 1954 (Republican-controlled), 1994 (Democratic-controlled), and 2010 (Democratic-controlled) lame duck sessions of Congress. For a detailed review of lame duck sessions of Congress (1935-2016), see CRS Report R45154, *Lame Duck Sessions of Congress, 1935-2016 (74th-114th Congresses)*.

1954

In the 1954 midterm election, the Republican Party lost its majorities in both chambers during President Eisenhower's first term in office. After the election, the Senate reconvened solely to consider disciplinary actions against Republican Senator Joseph R. McCarthy. (The House remained adjourned for the remainder of the 83rd Congress.) On November 9, a select investigative committee reported a resolution of censure, which was subsequently debated and amended on the Senate floor. On December 2, the Senate approved the two-count resolution censuring Senator McCarthy for behavior related to his inquiry into alleged communist influence in the federal government.

1994

Two years into President Clinton's presidency, the 1994 midterm gave Republicans control of the House and Senate for the next Congress. On November 29, both houses reconvened in order to consider the General Agreement on Tariffs and Trade. The measure, which had stalled in the Senate prior to the election, received bipartisan support in the lame duck. The House passed the bill on the first day of the session, and the Senate passed it on December 1.[7]

2010

In the 2010 election, midway through President Obama's first term in office, congressional Democrats lost their House majority as well as six seats in the Senate. On November 15, both chambers reconvened after the election to consider an extensive legislative agenda. Among the measures adopted, Congress passed the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (NDAA, P.L. 111-383), the FDA Food Safety Modernization Act (P.L. 111-353), the Don't Ask, Don't Tell Repeal Act (H.R. 2965), and the James Zadroga 9/11 Health and Compensation Act (H.R. 847). The House and Senate also extended the 2001 and 2003 income tax cuts and adopted a series of continuing resolutions (CRs) to provide government funding through March 4, 2011. In addition, the Senate voted to approve ratification of an arms control treaty with Russia (New START) and confirmed 19 federal judges.

[7] "General Agreement on Tariffs and Trade (GATT) Enacted in Lame-Duck Session," in *CQ Almanac 1994*, 50th ed. (Washington, DC: Congressional Quarterly, 1995), pp. 123-130.

Table 1. Lame Duck Sessions Following a Majority-Changing Election (1935-2016)

Year of Election (Congress of Lame Duck Session)[a]	Chamber	Majority Party	Majority Seats Lost or Gained[b] (Majority Control Changed by Election)	Session Dates[c]	Key Measures Approved
1948 (80th)	House	R	-75 (Yes)	Dec. 31, 1948 (1-day session)	legislation extending the Hoover Commission and Senate Special Small Business Committee
	Senate	R	-9 (Yes)		
1954 (83rd)	House	R	-18 (Yes)	**House Not in Session**	—
	Senate	R	-1 (Yes)	Nov. 8-Dec. 2, 1954	Senator McCarthy censure
1980 (96th)	House	D	-35 (No)	Nov. 12-Dec. 16, 1980	omnibus deficit reduction reconciliation measure; regular and continuing resolutions; Alaska lands; Superfund clean-up; revenue sharing; nuclear waste disposal; military benefits; military reserves policy
	Senate	D	-12 (Yes)		
1994 (103rd)	House	D	-54 (Yes)	Nov. 29, 1994 (1-day session)	General Agreement on Tariffs and Trade
	Senate	D	-9 (Yes)	Nov. 30-Dec. 1, 1994	
2006 (109th)	House	R	-31 (Yes)	Nov. 13-Dec. 9, 2006	continuing appropriations; tax benefit extensions; trade agreements; India nuclear power negotiations; U.S. Postal Service overhaul; Veterans' Affairs authorization for major medical projects; Senate confirmation of Secretary of Defense nominee
	Senate	R	-6 (Yes)		
2010 (111th)	House	D	-64 (Yes)	Nov. 15-Dec. 22, 2010	CRs; 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
	Senate	D	-6 (No)		
2014 (113th)	House	R	+13 (No)	Nov. 12, 2014-Jan. 2, 2015	CRs; Iran Sanctions Extension Act; 21st Century Cures Act; NDAA; Senate confirmed 117 nominees
	Senate	D	-9 (Yes)	Nov. 12-Dec. 16, 2014	

Sources: *Journals* of the House and Senate; Daily Digest of the *Congressional Record*; *Final Calendars* of the House and Senate; *Congressional Record*, *Congressional Quarterly Weekly Report*, *CQ Almanac*, *New York Times*, Reuters.

Notes:

a. While Senate Republicans temporarily lost majority control as a result of the 2000 election, the 2000 lame duck session is not included in this table. See footnote 2 for more information on the Senate's changing majority status during the 107th Congress.

b. This number indicates seats gained or lost as a result of the November congressional election. Senate independents are counted in the seat-change number if, according to Senate.gov, they caucused with the majority party.

c. For the purposes of this report, the first day of the lame duck session, in either house, is the first day of consecutive sessions following the election. The last day is the day of final adjournment.

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