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

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Summary

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

The Constitution mandates that Congress convene at noon on January 3, unless the preceding Congress by law designated a different day. Although no officers will have been elected when the House first convenes, officers from the previous Congress perform certain functions, such as conducting the election of the Speaker.

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

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

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

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

For an explanation of proceedings occurring on the first day in the Senate, see the companion report: CRS Report RS20722, *The First Day of a New Congress: A Guide to Proceedings on the Senate Floor*.

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Introduction

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

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

The House Convenes

The Twentieth Amendment to the Constitution directs that a new Congress convene at noon on January 3 in each odd-numbered year, unless the preceding Congress by law has designated a different day for the new Congress's convening. For example, on November 20, 2014, the 113th Congress completed action on H.J.Res. 129, setting the convening date for the 114th Congress as January 6, 2015. The joint resolution was signed into law by President Obama on December 4 (P.L. 113-201). Congressional leaders planned that the 115th, 116th, and 117th Congresses would convene January 3, obviating the need for a law to set the date.[3]

In recent years, it has been the exception rather than the rule for a new Congress to begin on January 3. Nine of the past 14 Congresses began on a date other than January 3:

- 104th Congress (January 4, 1995),
- 105th Congress (January 7, 1997),
- 106th Congress (January 6, 1999),
- 108th Congress (January 7, 2003),
- 109th Congress (January 4, 2005),
- 110th Congress (January 4, 2007),
- 111th Congress (January 6, 2009),
- 112th Congress (January 5, 2011), and
- 114th Congress (January 6, 2015).

[1] See CRS Report R41946, *Qualifications of Members of Congress*, coordinated by L. Paige Whitaker (available to congressional clients upon request).

[2] For information on the convening of the House, see Charles W. Johnson, John V. Sullivan, and Thomas J. Wickham Jr., "Assembly of Congress," in *House Practice, A Guide to the Rules, Precedents, and Procedures of the House of Representatives* (Washington, DC: GPO, 2017), pp. 155-163. (Hereinafter, *House Practice*.)

[3] The House concluded the 114th Congress pursuant to the terms of H.Res. 944, agreed to in the House December 7, 2016. The resolution permitted the chair (the Speaker or the Speaker pro tempore) to set dates for pro forma sessions through January 3, 2017. See also Niels Lesniewski, "That's a Wrap for the 114th Congress," *CQ Roll Call*, December 12, 2016, available at http://www.cq.com/doc/senatewatch-5003248?12&search=zNGDbVWv.

The 107th, 113th, 115th, 116th, and 117th Congresses convened on January 3, 2001; January 3, 2013; January 3, 2017; January 3, 2019; and January 3, 2021, respectively.[4]

Although no officers of the House will have been elected when the House first convenes, officers from the previous Congress perform certain functions.[5] The previous Clerk of the House calls the House to order and presides over the chamber until the Speaker is elected and sworn in. In the absence of the Clerk, the Sergeant at Arms performs this duty.[6]

After the Clerk calls the Representatives-elect to order, the Chaplain offers a prayer.[7] The Clerk leads the Members-elect and their guests[8] in reciting the Pledge of Allegiance. The Clerk then directs a reading clerk to call the roll of all Members-elect to establish that a quorum is present.[9] In current practice, the roll is not actually called by a clerk; rather, the Members-elect record their presence by inserting their official voting cards (obtained prior to or on opening day) in the chamber's electronic voting machines. Once the call of the roll is completed, a majority having registered their names, a quorum (218, if no vacancies) is indicated. This action fulfills the requirements of Article I, Section 5 of the Constitution that a quorum be present to conduct business.

The Clerk then announces the election of the Resident Commissioner from Puerto Rico (when applicable, since the Resident Commissioner's term is four years) and of the Delegates—one person from the District of Columbia and one person from each of the territories of Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa.[10] The Clerk also reports any deaths or resignations since the election.

A quorum being present, the first order of official business is the election of the Speaker of the House of Representatives.[11]

Election of the Speaker[12]

The candidates for Speaker are nominated from the floor by the leaders of their respective parties. Traditionally, there is one candidate from the majority party and one from the minority party,

[4] No law like P.L. 113-201 was enacted to set the convening date of these Congresses because their convening was planned for the constitutionally anticipated date of January 3.

[5] See CRS Report 98-396, *Guide to Individuals Seated on the House Dais*, by Valerie Heitshusen.

[6] See House Rule II, cl. 2, in *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United State, One Hundred Seventeenth Congress*, prepared by Thomas J. Wickham, H.Doc. 116-177, 115th Cong., 2nd sess. (Washington, DC: GPO, 2021). (Hereinafter, *House Rules and Manual*.)

[7] A guest chaplain might also offer this prayer, as occurred in 2017 when the Very Reverend Paul Ugo Arinze offered the prayer. In 2019 and 2021, the Reverend Emanuel Cleaver, a Member-elect from Missouri, offered the opening prayer.

[8] In recent Congresses, children under 12 years of age have been permitted to accompany Members on the floor for the opening-day ceremonies.

[9] All Members-elect whose credentials have been received by the Clerk are included in the first roll call on opening day to establish a quorum. Delegates-elect and the Resident Commissioner, however, are not included in this roll call. See "Status and Rights of Members-elect" in *House Practice*, pp. 159-160.

[10] By law, the term of service of Delegates is also two years, but the term of service of the Resident Commissioner is four years. See CRS Report R40555, *Delegates to the U.S. Congress: History and Current Status*, by Jane A. Hudiburg.

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

[12] See CRS Report RL30857, *Speakers of the House: Elections, 1913-2021*, by Valerie Heitshusen; and CRS Report

selected by the Republican Conference and the Democratic Caucus at their early organizational meetings. Individual Members-elect may place other names in nomination. Nominations are followed immediately by a "viva voce" roll-call vote, that is, a vote in which the Members-elect respond orally to the calling of their names. In this vote, the Members-elect call out the last name of their choice for Speaker when their names are called by a reading clerk. The Clerk appoints Members-elect to serve as majority and minority tellers, usually two each, to ascertain the vote.[13] So long as nearly all of the majority party's members vote for its candidate, the majority party is able to assure its candidate's election because the vote is likely to be almost exclusively along party lines.[14] The candidates themselves, however, sometimes vote "present" or do not vote.[15]

The following excerpt is from the proceedings for the election of the Speaker in the 117th Congress.[16]

ELECTION OF SPEAKER

> The CLERK. Pursuant to law and precedent, the next order of business is the election of the Speaker of the House of Representatives for the 117th Congress. Nominations are now in order. The Clerk recognizes the gentleman from New York (Mr. Jeffries).
>
> Mr. JEFFRIES. Madam Clerk… I rise today, at the direction of the House Democratic Caucus, to place the name of the Honorable Nancy Pelosi, Representative-elect from the great State of California, by way of Charm City, into nomination for election to the position of Speaker of the United States House of Representatives …
>
> The CLERK. The Clerk recognizes the gentlewoman from Wyoming (Ms. Cheney).
>
> Ms. CHENEY. Madam Clerk…it is my high honor today to have the great privilege to nominate the gentleman from California (Mr. McCarthy) to lead us in that work as Speaker of the United States House of Representatives…
>
> The CLERK. The names of the Honorable Nancy Pelosi, a Representative-elect from the State of California, and the Honorable Kevin McCarthy, a Representative-elect from the State of California, have been placed in nomination. Are there further nominations?
>
> There being no further nominations, the Clerk appoints the following tellers:
>
> The gentlewoman from Ohio (Ms. Kaptur);
>
> The gentleman from Illinois (Mr. Rodney Davis);
>
> The gentlewoman from California (Ms. Lofgren); and
>
> The gentlewoman from North Carolina (Ms. Foxx).

R44243, *Electing the Speaker of the House of Representatives: Frequently Asked Questions*, by Valerie Heitshusen. See also CRS Report 97-780, *The Speaker of the House: House Officer, Party Leader, and Representative*, by Valerie Heitshusen.

[13] Tellers are Members or clerks who count, or record and count, votes cast. See "Election of Speaker," *Congressional Record*, daily edition, vol. 165 (January 3, 2019), p. H2.

[14] The Speaker is elected by a majority, not a plurality, of votes cast by Members-elect. See *House Rules and Manual*, § 27, p. 14.

[15] In the 113th, 114th, 115th, 116th, and 117th Congresses, Rep.-elect Nancy Pelosi, as the Democratic nominee, voted for herself, as did Rep.-elect Kevin McCarthy in the 116th and 117th Congresses. Rep.-elect John Boehner (113th and 114th Congresses) and Rep.-elect Paul Ryan (115th Congress), as the Republican nominees in those Congresses, did not vote. See "Election of Speaker," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H3-H4. In the 110th Congress, both party nominees for Speaker voted for themselves. See "Election of Speaker," *Congressional Record*, vol. 153, part 1 (January 4, 2007), p. 3.

[16] See "Election of Speaker," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), pp. H2-H4.

> The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.
>
> The roll will now be called, and those responding to their names will indicate by surname the nominee of their choosing.
>
> The Reading Clerk will now call the roll.
>
> The tellers having taken their places, the House proceeded to vote for the Speaker.
>
> ...
>
> The CLERK. The tellers agree in their tallies that the total number of votes cast is 427, of which the Honorable Nancy Pelosi of the State of California has received 216, the Honorable Kevin McCarthy of the State of California has received 209, the Honorable Tammy Duckworth of the State of Illinois has received 1, the Honorable Hakeem Jeffries of the State of New York has received 1.
>
> Therefore, the Honorable Nancy Pelosi of the State of California, having received a majority of the votes cast, is duly elected Speaker of the House of Representatives for the 117th Congress.

Swearing-in of the Speaker

After the Speaker's election, the Clerk appoints a bipartisan committee to escort the Speaker-elect to the Speaker's chair on the dais. The Speaker-elect is escorted by leaders of both parties and, often, by Representatives-elect from his or her home state. He or she is introduced to the chamber by the minority leader, who might deliver a statement from the chair. The Speaker may make a statement of his or her own and then takes the oath of office.[17] By precedent, the dean of the House, the most senior (longest-serving) Member, regardless of party, administers the oath to the Speaker.[18] That oath is identical to that of the other Members. (See "Oath of Office for Members-Elect.")

The Speaker during the day's proceedings delivers a letter to the Clerk listing Members in the order in which they may act as the Speaker pro tempore, should a vacancy occur in the office, until a new Speaker is elected.[19]

Oath of Office for Members-Elect

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

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[17] Reps. Nancy Pelosi and Kevin McCarthy, "Swearing in of Speaker," remarks in House, *Congressional Record*, daily edition, vol. 167 (January 3, 2021), pp. H5-H7. In the 106th Congress, the Speaker-elect broke with tradition and delivered his remarks from the floor of the House rather than the dais. See Rep. Dennis Hastert, "Election of the Speaker," *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 44-45.

[18] Rep. Don Young (R-AK) was the dean of the House at the beginning of the 117th Congress and served in this capacity until his death on March 18, 2022. Rep. Young's House service began on March 6, 1973. Rep. Harold D. Rogers (R-KY), first elected to the House on January 3, 1981, is the current dean of the House.

[19] See "Announcement by the Speaker Pro Tempore," letter, *Congressional Record*, daily edition, vol. 167 (January 3, 2021), p. H38; and House Rule I, cl. 8(b)(3)(B).

> [Do you] I do solemnly swear (or affirm) that [you] I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that [you] I will bear true faith and allegiance to the same; that [you] I take this obligation freely, without any mental reservation or purpose of evasion; and that [you] I will well and faithfully discharge the duties of the office on which [you] I am about to enter[?]. So help [you] me God.[20]

An oath is mandated by Article VI of the Constitution, and its text is set by statute (5 U.S.C. 3331).[21] As the Members-elect raise their right hands, they are not required to hold anything in their left hands. Many have held a family Bible or another religious text in their left hands, but there is no requirement that anything be held when the oath is taken.

The same is true for Representatives who re-enact the event with their families and the Speaker in the Speaker's office after the formal ceremony. Many Members choose to hold something meaningful in their left hands. These objects have often been, but are not limited to, a family heirloom or something else of special significance. Nothing, however, is required. It is up to the Member to determine what, if anything, he or she holds.[22] While photography is not permitted of the swearing-in on the House floor, ceremonial swearing-ins may be photographed or recorded.

Members who were not present when all Members were sworn in might take the oath in the House chamber later on opening day.[23] Occasionally, the swearing-in of a Member-elect is delayed because of illness or other circumstances. When that happens, the Member-elect is sworn in at a later date in the House chamber or elsewhere by someone designated by the Speaker. The oath of office may be administered by another Member or by a judge. The location has been at sites in Washington, DC, other than the Capitol and in other parts of the country.

If the swearing-in of a Member is challenged, the Speaker, pursuant to House precedents, will ask the Member-elect to remain seated while the others are sworn in. The House then determines the disposition of the challenge.[24]

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[20] "Swearing In of Members," oath of office, *Congressional Record*, daily edition, vol. 167 (January 3, 2021), p. H8.

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

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

[23] Once a Member-elect has been sworn in, he or she may vote on all subsequent questions. If a Member misses a vote on opening day or any other occasion, he or she might want to make known a position on the question. See "Personal Explanation," in *House Practice*, p. 963.

[24] On January 3, 1985, for example, the seating of Rep.-elect Richard McIntyre of the Eighth Congressional District of Indiana was challenged. In that incident, the House adopted a resolution (H.Res. 1), declining to seat McIntyre and referring the challenge to the House Administration Committee for further examination. The Member-elect's opponent, Frank McCloskey, was ultimately seated. See "Election Contests and Disputes," in *House Practice*, pp. 491-496; and Rep. James Wright, "Referring Election of a Member from the Eighth Congressional District of Indiana to the Committee on House Administration," *Congressional Record*, vol. 131, part 1 (January 3, 1985), pp. 381-388.

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

Announcement of Party Leaders

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

> Mr. JEFFRIES. Madam Speaker, as chair of the Democratic Caucus, I am directed to report to the House that the Democratic Members have selected as majority leader the gentleman from Maryland, the Honorable STENY HOYER.
>
> Ms. CHENEY. Madam Speaker, as chair of the Republican Conference, I have been directed to report to the House that the Republican Members have selected as minority leader the gentleman from California, the Honorable KEVIN MCCARTHY.[25]

The party chairs then announce the names of those elected to serve as majority and minority whips.[26]

Election of Officers

The House next turns to the election of its administrative officers: Clerk, Sergeant at Arms, Chief Administrative Officer, and Chaplain. A simple resolution nominating the slate of candidates is offered by the chair of the caucus or conference of the majority party. The minority party proposes its own roster of candidates as an amendment to the majority party's resolution. By tradition, neither the resolution nor the amendment is debated, although the slate can be divided with a separate vote on any or all officers.[27] Again, because of its numerical advantage, the majority is usually able to defeat the minority substitute and to adopt the resolution naming its chosen candidates. The Speaker administers the oath to the newly elected officers.[28]

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determination of the winner of the election in the Forty-sixth District of California. See "Swearing In of Members," oath of office, *Congressional Record*, vol. 143, part 1 (January 7, 1997), p. 120.

See also CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker. Additional discussion also appears in an out-of-print report, available to congressional clients from its author: CRS Report 98-194, *Contested Election Cases in the House of Representatives: 1933 to 2011*, by L. Paige Whitaker. Regarding qualifications of Members of the House, see CRS Report R41946, *Qualifications of Members of Congress*, coordinated by L. Paige Whitaker (available to congressional clients upon request).

[25] See "Majority Leader" and "Minority Leader," announcement, *Congressional Record*, daily edition, vol. 165 (January 3, 2019), p. H7. See also CRS Report RL30665, *The Role of the House Majority Leader: An Overview*, by Walter J. Oleszek; and CRS Report RL30666, *The Role of the House Minority Leader: An Overview*, by Mark J. Oleszek.

[26] The Democratic Caucus chair also announces the selection of the Assistant Speaker. See "Majority Whip" and "Minority Whip and Assistant Speaker," announcement, *Congressional Record*, daily edition, vol. 167 (January 3, 2021), p. H9. See also CRS Report RS20881, *Party Leaders in the House: Election, Duties, and Responsibilities*, by Valerie Heitshusen.

[27] Traditionally, a Member asks for a division so that there will be a separate vote on the chaplain; the minority does not then include an alternate chaplain in its amendment. See "Electing Officers of the House of Representatives," House debate, *Congressional Record*, daily edition, vol. 167 (January 3, 2021) p. H9.

[28] Ibid. See also CRS Report RL33220, *Support Offices in the House of Representatives: Roles and Authorities*, by Ida A. Brudnick; CRS Report R41807, *House and Senate Chaplains: An Overview*, by Ida A. Brudnick; CRS Report RS20544, *The Office of the Parliamentarian in the House and Senate*, by Valerie Heitshusen; and CRS Report RS22890, *House Office of General Counsel*, by Matthew E. Glassman.

Notification to the Senate and the President

The House adopts simple resolutions to formally notify the Senate and the President that it has elected its leaders, is assembled, and is ready to receive messages from them. Subsequently, the majority and minority leaders as well as two Senators (usually the majority and minority leaders) telephone the President with the news that Congress has assembled and is ready to begin its work. The Clerk of the House is also authorized by resolution to inform the President that the House has selected its Speaker and Clerk.[29]

Adoption of House Rules of Procedure

The next order of business is the adoption of the rules of the House. Although the rules of one House do not carry over to the next House, a newly elected House typically approves its rules by adopting the rules of the previous Congress with specific amendments.[30] In a departure from the practice most frequently followed, in the 117th Congress, the adoption of the rules package was undertaken on the second day of the Congress instead of on January 3. Traditionally, prior to the first day of a new Congress, majority and minority Rules Committee members and possibly other party groups have worked on any changes the majority or minority wish to implement in the House's standing rules.[31] With the majority party's numerical advantage, its rules package, as presented, prevails.

The majority's proposed rules are offered in the form of a House simple resolution, often numbered H.Res. 5, although in the 117th Congress, the resolution was number 8.[32] Since there are at that time no existing House rules, the resolution is considered under "general parliamentary law," which the House interprets to resemble in large part the rules in force in the preceding Congress.[33] Debate is normally limited to one hour, although the time might be extended by unanimous consent, and the majority party floor manager of the resolution traditionally yields half the debate time "for purposes of debate only" to the minority floor manager. Participants in the debate discuss the majority's proposal and any minority-party alternative proposal.[34]

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[29] See "To Inform the Senate That a Quorum of the House Has Assembled and of the Election of the Speaker and the Clerk," "Authorizing the Speaker To Appoint a Committee To Notify the President of the Assembly of the Congress," and "Authorizing the Clerk To Inform the President of the Election of the Speaker and the Clerk," *Congressional Record*, daily edition, vol. 167 (January 3, 2021), p. H9.

[30] For the 117th Congress rules resolution debate, see "Rules of the House," House debate, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), pp. H13-H36. In the 106th Congress, for the first time in over 100 years, the House recodified its rules. The majority and minority had worked together in the prior Congress on the recodification. The majority also offered several amendments to the recodified rules. See "Rules of the House," House debate, *Congressional Record*, vol. 145, part 1 (January 6, 1999), pp. 47-235.

[31] See CRS Report RL30787, *Parliamentary Reference Sources: House of Representatives*, by Gail E. Baitinger.

[32] On a few occasions, the House has first adopted a special rule governing consideration of that Congress's rules resolution. In the 104th, 110th, and 116th Congresses, for example, these special rules were numbered H.Res. 5 and the rules resolutions were numbered H.Res. 6. See also CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

[33] For a summary of the procedures the House follows in the brief period of time it is in session prior to the formal adoption of its own rules, see "Assembly of Congress," in *House Practice*, pp. 155-163.

[34] The prospective chair of the Rules Committee, who manages debate for the majority, inserts an explanation of the proposed rules changes in the *Congressional Record*. See Rep. James McGovern, "H.Res. 8," insert, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), pp. H23-H29. See also CRS Report RS22991, *Speaking on the House Floor: Gaining Time and Parliamentary Phraseology*, by Elizabeth Rybicki.

At the end of debate time, the majority manager moves the previous question. The majority party's numerical advantage assures the adoption of this debate-ending motion. The effect is to force a nearly immediate vote on the question of final approval of the majority's own rules package. Adoption of the previous question motion ends debate and prevents the minority from actually offering its alternative rules package.[35] Nonetheless, the minority still has the ability to offer a motion to commit with instructions, that is, one more chance to offer an amendment to the majority's rules resolution.[36] With its numerical majority, the majority party is able to prevail in defeating a motion to commit, if offered, and, then, in adopting its rules resolution.

Separate Orders and Other Components

In addition to allowing the adoption of the previous House's rules with specific amendments to those rules, a rules resolution may include other provisions that govern additional House action or activities. Such provisions typically appear as the final sections of the rules resolution, may be extensive, and may be labeled as separate orders, additional orders, or even with a specific name. In the 117th Congress rules resolution (H.Res. 8), for example, Section 3 was labeled Separate Orders; Section 4 was labeled Committees, Commissions, and House Offices; and Section 5 was labeled Orders of Business.[37] Additional titles of the resolution reestablished a Select Committee on the Modernization of Congress and reauthorized House intervention in pending litigation.

The separate orders in Section 3 of H.Res. 8 pertained to House rules (e.g., granting deposition authority to most House committees) and rules in rulemaking statutes (e.g., the War Powers Resolution and the Congressional Budget Act). These separate orders and other orders departed from or interpreted these rules in a specific manner and were applicable for the first session of the 117th Congress or for the duration of the 117th Congress.

The provisions related to committees, commissions, and House offices in Section 4 of the 117th Congress rules resolution continued the existence for the 117th Congress of resolutions from prior Congresses that created the House Democracy Partnership, the Tom Lantos Human Rights Commission, and the Office of Congressional Ethics. The House needed to formally indicate that these resolutions were in effect since a simple resolution normally expires at the end of the Congress in which it is adopted.

An additional order in Section 5 provided various "recess instructions" commonly adopted by the House when it expects to be out of session for a specific time period—for example, permitting the Speaker to appoint Members to perform the duties of the chair in the opening weeks of the Congress.[38]

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[35] If the minority has an amendment to the majority's rules resolution, the minority floor manager asks Members to defeat the previous question so that the minority may offer its amendment. In the 115th Congress, for example, the minority's amendment would have added a new paragraph to Rule XXI ("Restrictions on Certain Bills"). The amendment would have prohibited the House from considering a bill, joint resolution, amendment, or conference report that adversely affected health benefits in one of seven ways or that reduced taxes for very wealthy taxpayers or increased taxes for 80% of the population that was comparatively the least wealthy. See Rep. Louise Slaughter, House debate "An Amendment to H.Res. 5 Offered by Ms. Slaughter of New York," daily edition, vol. 163 (January 3, 2017), pp. H25-H26.

[36] A "motion to commit" is a motion to send to committee a matter that had not previously been referred to a committee. A "motion to recommit" is a motion to send back to committee a matter that had been reported from the committee. See Walter Kravitz, *Congressional Quarterly's American Congressional Dictionary*, 3rd ed. (Washington, DC: CQ Press, 2001), pp. 45-46 and 205.

[37] Other provisions as well as similar ones appeared in House rules resolutions in preceding Congresses.

[38] The same provision has appeared in a number of biennial House rules resolutions.

Special Orders

The terms *special order* and *special rule* are used somewhat interchangeably.[39] In either case, a special rule may make in order House consideration of a measure and establish the terms of the measure's debate and amendment, among other provisions. It might also alter specific rules of the House only for the consideration of one or more measures identified in the special order, perhaps permitting an action that would otherwise be prohibited. When the majority party wishes to begin moving quickly in a new Congress on legislation, it might include in the rules resolution special orders making in order the consideration of specified measures or temporarily altering specific rules to allow the consideration of a specified measure.

In the 117th Congress, Section 5 of H.Res. 8 permitted motions to suspend the rules to be made at any time through the legislative day of January 28, 2021.[40] Without this order, the motion could be made only on Mondays, Tuesdays, and Wednesdays. A similar provision in Section 5 of H.Res. 5 in the 112th Congress applied to a resolution to be considered on Thursday, January 6, 2011, that reduced salaries and expenses authorized for Member, committee, and leadership offices. This provision also expanded the debate time of 40 minutes under the rule on suspension of the rules to 2 hours.[41]

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

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

H.Res. 5 in the 106th Congress made in order consideration of a resolution to amend the House gift rules (H.Res. 9). H.Res. 6 in the 104th Congress made in order the consideration of H.R. 1, the Congressional Accountability Act.

Speaker's Announcements

On the day of convening or shortly thereafter, the Speaker customarily announces the Speaker's policies with respect to certain floor practices for the duration of the Congress. These policies are grounded in authority or discretion granted the Speaker in the rules. The 10 policies in effect for the 117th Congress address—

- privileges of the floor,
- introduction of bills and resolutions,
- unanimous consent requests for the consideration of legislation,
- recognition for one-minute speeches,

[39] See CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth.

[40] The House subsequently amended its standing rules to permit such motions on any day of the week.

[41] See CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

- recognition for special-order speeches,
- decorum in debate,[42]
- conduct of votes by electronic device,[43]
- use of handouts on the House floor,
- use of electronic equipment on the House floor,[44] and
- use of the House chamber.[45]

Legislative Protocols

In recent Congresses, the majority leader has initiated a set of written protocols to guide the scheduling or consideration of legislation during a two-year Congress. The protocols cover matters involving the content of authorization bills, the availability of measures scheduled for consideration under the suspension of the rules procedure, and other items. Both parties' rules also contain guidance on scheduling or considering legislation. For example, both parties' rules contain guidance on legislation qualifying to be considered under the suspension of the rules procedure. These protocols and party rules are not printed in the *Congressional Record*.[46]

Memoranda of Understanding Between Committees

The Speaker, the chair of the Rules Committee, or the chairs of relevant committees might submit memoranda of understanding for printing in the *Congressional Record*. These memoranda most often provide guidance on the referral of legislation where an ambiguity is present, possibly triggered by a change in rules. In the 114th Congress, for example, the Speaker inserted three memoranda of understanding between the chair of the Judiciary Committee and, respectively, the chairs of the Agriculture, Energy and Commerce, and Ways and Means Committees.[47] In adopting H.Res. 5, the House made a change in the Judiciary Committee's jurisdiction by adding the phrase "and criminalization" to the committee's jurisdiction over "criminal law enforcement."[48] The change was intended to "cover measures that alter the elements of a crime so as to criminalize new conduct and, in so doing, trigger an existing criminal penalty." Measures

[42] Discussion of decorum in debate appears in *House Practice*, pp. 407-430.

[43] For background on voting in the House, see CRS Report 98-988, *Voting and Quorum Procedures in the House of Representatives*, coordinated by Elizabeth Rybicki; and *House Practice*, pp. 937-970.

[44] In the 115th Congress, the Speaker pro tempore also addressed a rule change relating to electronic devices in an announcement earlier in the day's proceedings and responded to a parliamentary inquiry following the announcement. "Announcement by the Speaker Pro Tempore," parliamentary inquiry, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H28.

[45] See, "Announcement by the Speaker Pro Tempore," *Congressional Record*, daily edition, vol. 167 (January 4, 2021), pp. H38-H41

[46] For protocols for the 117th Congress, see Majority Leader Steny Hoyer's website at https://www.majorityleader.gov/content/117th-congress-legislative-protocols. The House Republican Conference's rules are available at https://www.gop.gov/conference-rules-of-the-117th-congress/. House Democratic Caucus rules are available at https://www.dems.gov/imo/media/doc/DEM_CAUCUS_RULES_117TH_April_2021.pdf.

[47] Speaker John A. Boehner, "Memoranda of Understanding between the Committee on the Judiciary and the Committees on Agriculture, Energy and Commerce, and Ways and Means," Extension of Remarks, *Congressional Record*, daily edition, vol. 161 (January 6, 2015), p. E1.

[48] Section 2(b)(2)(A) of H.Res. 5, agreed to in the House January 6, 2015.

reported from committees other than Judiciary with these kinds of provisions had affected the scope of the Judiciary Committee's jurisdiction over criminal law enforcement.[49]

The Speaker, alternatively, might include a policy statement in the Speaker's announcements for a Congress.[50]

Daily Meeting Time for the House

The House establishes its daily hour of meeting for the first session of the new Congress by a simple resolution. It must therefore be renewed for the next session of Congress.[51]

Morning Hour

The House by unanimous consent allows a period preceding House sessions called Morning Hour. In Morning Hour, Members may speak up to five minutes on topics of their choice.[52]

Extension of Remarks

To eliminate a routine daily unanimous consent request, the House agrees by unanimous consent at the beginning of a Congress that Members may publish remarks and include supporting information in the Extension of Remarks section of the *Congressional Record*.[53]

Alternate Meeting Place

The House adopts a concurrent resolution (H.Con.Res. 1, 117th Congress) by unanimous consent to allow the Speaker and the majority leader of the Senate (or their designated representatives) to notify the Members of the House and Senate to assemble outside of Washington, DC, if circumstances require it.[54]

Committee Organization

The committee assignment process occurs largely within the party groups—the Republican Conference and the Democratic Caucus. The conference and the caucus have their own rules

[49] See the explanation of the rule change and the full quotation at Rep. Pete Sessions, "H.Res. 5," insert, *Congressional Record*, daily edition, vol. 161 (January 5, 2015), pp. H12-H14.

[50] See, for example, Speaker Dennis Hastert, "Memorandum of Understanding between Energy and Commerce Committee and Financial Services Committee," insert, *Congressional Record*, vol. 147, part 1 (January 20, 2001), p. 163, which was later followed by "Announcement by the Speaker Pro Tempore," *Congressional Record*, vol. 151, part 1 (January 4, 2005), p. 71.

[51] See "Fixing the Daily Hour of Meeting of the First Session of the One Hundred Seventeenth Congress," House debate, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37.

[52] See "Making in Order Morning-Hour Debate," unanimous consent, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37.

[53] See "Granting Members Permission To Extend Remarks and Include Extraneous Material in the Congressional Record during the 117th Congress," unanimous consent, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37.

[54] See "Regarding Consent To Assemble Outside the Seat of Government," House debate, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37.

governing committee assignments. The only action visible on the chamber floor is the adoption of simple resolutions that implement the committee nominations recommended by the conference and the caucus. The adoption of such resolutions is routine and occurs without debate or amendment because of the tacit understanding that each party has a right to establish its own internal distribution of committee assignments. The House may take up one or more assignment resolutions on opening day, but the consideration of additional assignment resolutions extends throughout January and possibly for several additional weeks.[55]

The House typically in March adopts a funding resolution for its committees. Interim funding through March would have been provided by the House in the preceding Congress.[56]

Other First-Day Floor Actions

Other routine organizational business may be taken up on the House floor on the first day. Concurrent resolutions may be adopted providing for a joint session of Congress to receive the President's State of the Union message, or providing for an adjournment of the House and Senate.[57] The Speaker and minority leader might make appointments to commissions, committees, or other offices.[58] A resolution of condolence on the death of a Member that occurred subsequent to the adjournment of the last Congress may also be considered.[59]

Counting Electoral Votes

Some resolutions are dependent on specific circumstances that might not occur in every new Congress. For example, following a presidential election, the new House adopts resolutions providing for the counting by the new Congress of electoral votes cast for the President and Vice

[55] See, for example, the two entries labeled "Electing Members to Certain Standing Committees of the House of Representatives," House debate, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), pp. H36-H37.

[56] If the House creates a new committee in its rules resolution, it might provide interim funding. See, for example, "Providing Amounts for Interim Expenses of the Committee on Homeland Security in the First Session of the 109th Congress," House debate, *Congressional Record*, vol. 151, part 1 (January 4, 2005), pp. 71-73. See also, CRS Report RL32794, *House Committee Funding: Process and Historical Appropriations and Authorizations*, by Ida A. Brudnick.

[57] See, for example, "Providing for a Conditional Recess or Adjournment of the Senate and an Adjournment of the House of Representatives," House debate, *Congressional Record*, vol. 157, part 1 (January 7, 2011), p. 106.

[58] See "Appointment of Members to House Office Building Commission," "Reappointment of Individuals to the United States-China Economic and Security Review Commission," announcement, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37. See also, "Authorizing the Speaker, Majority Leader and Minority Leader to Accept Resignations and Make Appointments during the 117th Congress," unanimous consent, *Congressional Record*, daily edition, vol. 167 (January 4, 2021), p. H37.

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

President of the United States;[60] continuing the Joint Congressional Committee on Inaugural Ceremonies; and authorizing the use of the Capitol and its grounds for inaugural activities.[61]

Other First-Day Business

After the House has completed its initial organizational proceedings, it might then turn to legislative or routine business, which normally completes its legislative day. Routine business might include the introduction of bills and resolutions,[62] receipt and referral of messages from the President and executive agencies,[63] receipt of messages from the Senate,[64] one-minute and special-order speeches,[65] and notices and announcements required by House rule or regulation.[66]

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[60] By law (3 U.S.C. 15), the House and Senate meet to count the electoral votes on January 6 at 1:00 p.m. in the House chamber, following the previous month's meeting of the electors. On the opening day of the 115th Congress, the House concurred in S.Con.Res. 2, providing for the joint meeting on January 6, 2017. In 2013, January 6 fell on a Sunday. The 112th Congress enacted a change in the law applicable only to the counting of electoral votes following the 2012 presidential election, setting the date of the joint session as January 4, 2013 (H.J.Res. 122; P.L. 112-228). See also CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, coordinated by Elizabeth Rybicki and L. Paige Whitaker.

[61] The 116th Congress agreed on May 6, 2020, to create the Joint Committee on Inaugural Ceremonies to make arrangements for the presidential inauguration in January 2021 (S.Con.Res. 38).

[62] The rules resolution typically includes an order reserving bill numbers (for the first session or for both sessions of a Congress) for the majority (H.R. 1-H.R. 10) and the minority (H.R. 11-H.R. 20). A sponsor with his or her party leadership's agreement may introduce a bill within this allotment at any time and may designate one of the remaining numbers to be assigned to it. See Section 103(e) of H.Res. 6, agreed to in the House January 3, 2019. See also CRS Report R46603, *Bills, Resolutions, Nominations, and Treaties: Characteristics and Examples of Use*, by Jane A. Hudiburg; and CRS Report 95-563, *The Legislative Process on the House Floor: An Introduction*, by Christopher M. Davis.

[63] See "Executive Communications, Etc.," *Congressional Record*, daily edition, vol. 167 (January 3, 2021), p. H10.

[64] See "Message From the Senate," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H28.

[65] See, for example, "Special Orders," *Congressional Record*, vol. 153, part 1 (January 4, 2007), pp. 43-58.

[66] See, for example, the notice of receipt of a subpoena at "Communication from Chief of Staff of Hon. John M. Shimkus, Member of Congress," *Congressional Record*, vol. 149, part 1 (January 7, 2003), p. 22; "Communication from the Clerk of the House," *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H34; and "Announcement by the Speaker Pro Tempore," announcement of the whole number of the House, *Congressional Record*, daily edition, vol. 163 (January 3, 2017), p. H36.

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