



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

Judy Schneider
Specialist on the Congress

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Summary

This report focuses on the floor activities of the House during its first formal session in a new Congress, and serves as a guide for those participating in or watching these proceedings.

The House is not a continuing body. It ends at the conclusion of each two-year Congress and must reconstitute itself at the beginning of the next Congress. Article 1, Section 2 of the Constitution sets terms for Members of the House at two years. The House must choose its Speaker and officers and determine the chamber's internal rules every two years.

The Constitution mandates that Congress convene at noon on January 3, unless it has earlier passed a law designating a different day. Although no officers have been elected when the House first convenes, some officers from the previous Congress perform certain functions.

The House follows a well-established first day routine of electing and swearing in the Speaker, administering the oath of office to its Members, electing and swearing in its administrative officers, and adopting its rules of procedure. It also establishes its daily hour of meeting.

On opening day, the House usually adopts resolutions assigning its Members to serve on committees. This process often extends for several more weeks. The committee assignment process occurs primarily within the party groups—the Republican Conference and the Democratic Caucus. Assignments cannot be considered on the House floor until both of these groups have adopted rules governing committee assignments.

Other routine organizational business may also be taken up on the House floor on the first day. The Speaker usually announces his/her policies on certain floor practices; a resolution is adopted providing for a joint session of Congress to receive the President's State of the Union Message; and often a resolution is adopted to allow a judge or a Member of Congress to administer the oath of office to Members-elect who are absent due to illness or other reasons.

Some resolutions on opening day are dependent on specific circumstances and do not occur at the beginning of each new Congress. In inaugural years, the House must adopt a resolution to authorize the use of the Capitol for the inauguration activities. At the outset of a new Congress following a presidential election, the House must also adopt a resolution providing for the counting of electoral votes for the President and Vice President of the United States by the new Congress.

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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 its Members, electing and swearing in its administrative officers, and adopting its rules of procedure. Also, resolutions assigning Members to committees may 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 terms for Members of the House at two years. Thus, the House ends at the conclusion of each two-year Congress and must reconstitute itself at the beginning of a new Congress.¹

The House Convenes

The Constitution mandates that a new Congress convene at noon on January 3 each odd numbered year unless it has earlier passed a law designating a different day. For example, the 111th Congress convened on January 6, 2009.² The 109th and 110th Congresses convened on January 4, 2005, and January 4, 2007, respectively. In fact, with the exception of the 107th Congress which convened on January 3, 2001, all Congresses in the past 14 years have convened on days other than January 3. Although no officers have been elected when the House first convenes, some officers from the previous Congress perform certain functions. The previous Clerk of the House calls the House to order and presides over the chamber until the Speaker is sworn in. In the absence of the Clerk, the Sergeant at Arms performs this duty.³

The chaplain offers a prayer, and the Members-elect and their guests recite 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 present⁴. In current practice, the roll is not actually called by a clerk; the Members-elect record their presence by inserting their official voting cards (obtained prior to opening day) in the chamber's electronic voting machines. Once the call of the roll is completed, a majority having registered their names, a quorum (218) is proved present.⁵ This action fulfills the requirements of Article I, Section 5 of the Constitution that no business be conducted by the House without a quorum being present. The Clerk then announces the election of the Resident

¹ For information on convening of the House, see William Holmes Brown, "Assembly of Congress," in *House Practice, A Guide to the Rules, Precedents, and Procedures of the House of Representatives* (Washington: GPO, 2003), pp. 157-165. For information on organizational meetings held prior to the formal start of a new Congress, see CRS Report RS21339, *Congress's Early Organization Meetings*, by Judy Schneider.

² See P.L. 110-420, signed on October 15, 2008.

³ See House Rule II, clause 2, Sec. 641, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, 111th Cong., H. Doc. 110-162 (Washington: GPO, 2009).

⁴ "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." See William Holmes Brown, "Status and Rights of Members-elect," in *House Practice, A Guide to the Rules and Procedures of the House of Representatives*, p. 161.

⁵ A quorum is the minimum number of Members required to be present for the transaction of business. Under the Constitution, a quorum in each House is a majority of its members: 218 in the House and 51 in the Senate when there are no vacancies. For more information, see Congressional Research Service, "Congressional Quarterly's American Congressional Dictionary," <http://www.crs.gov/products/guides/glossary/q.shtml>.

Commissioner from Puerto Rico (when applicable) and the Delegates (one each) from the District of Columbia, Guam, the U.S. Virgin Islands, Northern Mariana Islands, and American Samoa,⁶ and reports any deaths or resignations since the election.⁷

A quorum being present, the first order of official business is the election of the presiding officer, the Speaker of the House of Representatives.⁸

Election of the Speaker

The candidates for Speaker are nominated from the floor by the leaders of their respective parties. Traditionally, there is one candidate from the majority party and one from the minority party, selected by the Republican Conference and the Democratic Caucus at their early organizational meetings.⁹ Debate on the nomination of candidates for Speaker is allowed but not customary.¹⁰ Instead, the nominations are followed immediately by a *viva voce* roll call vote—that is, a vote in which the Members-elect respond orally to the calling of their names. In this vote, the Members-elect call out the last names of their choices for Speaker when their names are called by the Clerk. The Clerk appoints Members-elect to serve as majority and minority tellers, usually two each, to ascertain the vote.¹¹ The majority party is able to assure the election of its candidate because the vote is usually along straight party lines.¹² The candidates themselves, however, often vote “present.”¹³

⁶ The Resident Commissioner from Puerto Rico serves a four-year term.

⁷ At the beginning of the 109th Congress, the Clerk announced the death of Rep. Robert Matsui of California since the last regular election for Representatives to the 109th Congress. See The Clerk [Jeffrey J. Trandahl], “Announcement by the Clerk,” *Congressional Record*, daily edition, vol. 151, January 4, 2005, p. H2. In the 107th Congress, the Clerk announced the death of Rep. Julian Dixon of California since the last regular election for Representatives to the 107th Congress. See The Clerk [Jeffrey J. Trandahl], “Announcement by the Clerk,” *Congressional Record*, vol. 147, January 3, 2001, p. 20. In the 106th Congress, the Clerk announced that he had received a letter from Rep. Newt Gingrich, who announced that he would not seek reelection as Speaker of the House or take his seat as a Member from the Sixth District of Georgia. See The Clerk [Jeffrey J. Trandahl], “Resignation As Member of the House of Representatives,” *Congressional Record*, vol. 145, January 6, 1999, p. 42.

⁸ For more information on the Speaker, see CRS Report RL30857, *Speakers of the House: Elections, 1913-2009*, by Richard S. Beth and Valerie Heitshusen. See also House Rule I.

⁹ Although the Speaker has always been a Member of the House, this is not a requirement. For example, at the commencement of the 105th Congress, two former Members, in addition to the two party nominees and another incumbent Member, received votes for Speaker. In the 107th -109th Congresses, one incumbent Member other than the two party nominees received a vote for Speaker.

¹⁰ At the commencement of the 105th Congress, the chair of the Democratic Caucus rose to “a question of the highest constitutional privilege” to offer a resolution calling for the postponement of the election of the Speaker until the completion of a pending investigation. His resolution proposed the election of an interim Speaker, but the motion was tabled. See Rep. Vic Fazio, remarks in the House, *Congressional Record*, vol. 143, January 7, 1997, pp. 115-116.

¹¹ Tellers are Members or clerks who count votes cast on the House floor. Vote totals are announced but not the votes of individual Members.

¹² Note that the Independent Members usually vote for the candidate of the party with which they have chosen to caucus.

¹³ In the 110th Congress, both party nominees for Speaker voted for themselves. See “Election of Speaker,” *Congressional Record*, daily edition, vol. 153, January 4, 2007, pp. H2-H3. In the 111th Congress, Speaker Pelosi voted for herself, while Minority Leader Boehner did not vote, *Congressional Record*, daily edition, vol. 155, January 6, 2009, pp. H3-H4.

The following excerpts are the proceedings for the election of the Speaker in the 111th Congress.

ELECTION OF SPEAKER¹⁴

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 111th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON. Madam Clerk, ... as chairman of the Democratic Caucus, I have been directed by the unanimous vote of the Caucus to present for election to the Office of the Speaker of the House of Representatives for the 111th Congress the name of the Honorable NANCY D'ALESSANDRO PELOSI, a Representative-elect from the great State of California.

The CLERK. The Clerk now recognizes the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Madam Clerk, ... as chairman of the Republican Conference, I am also directed by unanimous consent of that conference to present for election to the office of the Speaker of the House of Representatives for the 111th Congress... the name of the Honorable JOHN A. BOEHNER, a Representative-elect from the State of Ohio.

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

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

The Clerk appoints the gentleman from Pennsylvania (Mr. BRADY), the gentleman from California (Mr. LUNGREN), the gentlewoman from Ohio (Ms. KAPTUR), and the gentlewoman from Florida (Ms. ROS-LEHTINEN).

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

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

The Reading Clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.¹⁵

The CLERK. The tellers agree in their tallies that the total number of votes cast is 429, of which the Honorable NANCY PELOSI of the State of California has received 255 votes and the Honorable JOHN A. BOEHNER of the State of Ohio has received 174 votes.

¹⁴ All excerpts are taken from the *Congressional Record*, daily edition, vol. 155, January 6, 2009, pp. H3-H4.

¹⁵ Prior to the voting for Speaker in the 106th Congress, a parliamentary inquiry was made by the Resident Commissioner from Puerto Rico and another Member-elect about the Delegates in the House being allowed to cast ballots for Speaker. The Clerk announced, however, that "Representatives-elect are the only individuals qualified to vote in the election of the Speaker." See "Election of Speaker, 'Parliamentary Inquiry,'" *Congressional Record*, vol. 145, January 6, 1999, p. 43.

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 111th Congress.

Swearing in of the Speaker

Next, the newly elected Speaker, escorted by leaders of both parties and often Representatives-elect from his/her home state, is introduced to the chamber by the minority leader, who first delivers a short statement from the chair. The Speaker often responds with a statement of his/her own and then takes the oath of office.¹⁶ By precedent, the “dean” of the House, the most senior (longest-serving) Member (regardless of party), administers the oath to the Speaker on the dais. That oath is identical to that of the other Members.¹⁷

Oath of Office

After taking the oath, the Speaker administers the following oath of office to all Members of the House, *en masse*, including the nonvoting Delegates and Resident Commissioner. The oath, which follows, is in the form of a question, to which the newly elected Members respond in the affirmative:

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

This oath is mandated by Article VI of the Constitution, and its text is set by statute (5 U.S.C. 3331). As the Members-elect raise their right hand, they are not required to hold anything in their left hand. Many have held a family bible or other scripture in their left hand, 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. Photographers are present, and many Members choose to hold something meaningful in their left hand. 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 those being photographed to determine what, if anything, a Member holds in his/her left hand.¹⁸

¹⁶ In the 106th Congress, the Speaker broke with tradition and delivered his remarks from the floor of the House rather than the dais. See Rep. Dennis Hastert, remarks in the House, *Congressional Record*, vol. 145, January 6, 1999, pp. 44-45.

¹⁷ Rep. John Dingell (D-MI) is the dean of the House in the 111th Congress.

¹⁸ In the 110th Congress, for example, 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, the second Muslim elected to Congress used a copy of the House *Manual* for his mock ceremony 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.

Occasionally, the swearing in of a Member-elect is delayed because of illness or other similar circumstances. When this happens, the Member-elect is sworn in at a later date in the House chamber or elsewhere by someone designated by the Speaker. It is usually administered by other Members or judges. The locations have often been at other sites in Washington, DC or other parts of the country.¹⁹

If the swearing in of a Member is challenged, the Speaker, pursuant to House precedents, will ask this Member-elect to remain seated while the others are sworn in. The House then determines the disposition of the challenge.²⁰

Announcement of Party Leaders²¹

After the Speaker administers the oath of office, he receives reports from the chairmen of the two party organizations, the Republican Conference and the Democratic Caucus, who announce their parties' choices for majority and minority leaders.

MAJORITY LEADER

Mr. LARSON. Madam Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as majority leader the gentleman from Maryland, the Honorable STENY H. HOYER.

MINORITY LEADER

Mr. PENCE. Madam Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as minority leader the gentleman from Ohio, the Honorable JOHN A. BOEHNER.

¹⁹ In the 105th Congress, the swearing in of Rep.-elect Frank Tejeda of Texas and Rep.-elect Julia Carson of Indiana was delayed because of illness. Rep. Tejeda was sworn in January 8, 1997, and Rep. Carson on January 9, 1997. Both were sworn in by federal judges outside Washington, DC. See Rep. Richard Gephardt, "Authorizing the Speaker or His Deputy to Administer the Oath to the Honorable Frank Tejeda and the Honorable Julia Carson," *Congressional Record*, vol. 143, January 7, 1997, p.143-144. In the 106th Congress, two ill Members, Reps.-elect George Miller, and Sam Farr, were sworn in at their California homes by judges on January 7, 1999, and January 8, 1999, respectively. See Rep. Robert Menendez, "Authorizing the Speaker or His Deputy to Administer the Oath of Office to the Honorable George Miller and the Honorable Sam Farr of California," *Congressional Record*, vol. 145, January 6, 1999, p. 246. In the 108th Congress, Rep.-elect Darlene Hooley of Oregon took the oath of office on January 27, 2003, in the House chamber. See The Speaker [J. Dennis Hastert], "Swearing in of Member-Elect," *Congressional Record*, vol. 149, January 27, 2003, p. 1759. In the 109th Congress, Reps.-elect Mike Honda, Tom Osborne, Luis Gutierrez, and Chris Cannon took the oath of office on January 25, 2005, in the House chamber. See The Speaker [J. Dennis Hastert], "Swearing in of Members-Elect," *Congressional Record*, daily edition, vol. 151, January 25, 2005, p. H171.

²⁰ This last occurred on January 3, 1985, when the seating of Rep.-elect Richard McIntyre of the Eighth Congressional District of Indiana was challenged. In that incident, the House adopted a resolution referring the challenge to the House Administration Committee for further examination. The Member-elect's opponent, Frank McCloskey, was ultimately seated. See William Holmes Brown, "Election Contests and Disputes," in *House Practice, A Guide to the Rules and Procedures of the House of Representatives*, pp. 475-480, 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, January 3, 1985, pp. 381-388.

²¹ The excerpts are taken from the *Congressional Record*, daily edition, vol. 155, January 6, 2009, p. H5.

The chairmen then announce the names of those elected to serve as majority and minority whips. The whips are the assistant floor leaders.

Election of Officers

Next, the House turns to the election of its administrative officers: Chief Administrative Officer, Chaplain, Clerk, and Sergeant at Arms.²² The resolution nominating the slate of candidates is offered by the chairman of the 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.²³ Again, however, because of its numerical advantage, the majority is able to defeat the minority substitute, and to adopt the resolution naming its chosen candidates. Then, the Speaker administers the oath to the newly elected officers.

Notification to Other Body and to President

The House then considers resolutions which 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 and clerk of the House, as well as two Senators (usually the majority and minority leaders), appointed by the Vice President, telephone the President with the news that Congress is ready to begin its work.

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 Congress are not binding on the next, the House usually approves its rules by adopting *en bloc* the rules of the previous Congress with amendments. Normally, prior to the first day of a new Congress, task forces of both the majority and the minority party have worked on any changes they wish to implement in the House's standing rules. In modern times, the majority party's rules package has always prevailed.

The proposed rules are offered in the form of a House resolution. Since there are then no existing House rules, the resolution is considered under "general parliamentary law," which the House interprets to mean the rules in force in the preceding Congress.²⁴ Debate is normally limited to one hour, and the majority party manager traditionally yields half the time to the minority manager "for purposes of debate only" to discuss an alternative proposal. Because of that stipulation, no Member can offer an amendment to the rules proposal, and the minority substitute is not formally considered.

²² In the 102nd Congress, the office of postmaster was abolished, and that of doorkeeper was abolished in the 104th Congress. Their duties have been assumed by other officers.

²³ Rep. Larson, "Election of Clerk of the House, Sergeant at Arms, Chief Administrative Officer, and Chaplain," *Congressional Record*, daily edition, vol. 155 January 6, 2009, p. H6.

²⁴ 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 William Holmes Brown, "Assembly of Congress," in *House Practice, A Guide to the Rules and Procedures of the House of Representatives*, pp. 163-164.

At the end of debate time, the majority manager moves the previous question. The majority party's numerical advantage assures the adoption of this motion. The effect is to force an immediate vote on the question of final approval of the majority's own pending rules package. Therefore, any opportunity for the minority to offer an amendment is precluded.²⁵ If that motion were defeated, the minority would be entitled to offer an amendment to the majority's rules package. Normally, this does not happen, and the rules are usually adopted on a party-line roll-call vote.²⁶ If the rules package were to be defeated, the House would continue to operate under general parliamentary law until another rules package was adopted.

Daily Meeting Time for the House

The House establishes its daily hour of meeting by a resolution which must be renewed each session of Congress. The resolution is normally offered by the chairman of the House Rules Committee.

Committee Organization

The committee assignment process occurs largely within the party groups—the Republican Conference and the Democratic Caucus. The only action visible on the chamber floor is the adoption of resolutions which implement the committee nominations agreed upon by the conference and the caucus. The adoption of both resolutions is routine and occurs without amendment, because of the tacit understanding that each party has a right to establish its own internal distribution of work without amendment from the other.

Committee assignments may not be considered on the House floor until both the Republican Conference and the Democratic Caucus have adopted their own rules governing committee assignments. The House takes up some of the assignment resolutions on opening day, but their consideration extends throughout January and often for several additional weeks.

Other First-Day Floor Actions

Other routine organizational business may be taken up on the House floor on the first day. For example, the Speaker customarily announces his/her policies with respect to certain floor

²⁵ Given that the rules of the House in the last Congress apply generally, the minority party is given the right to offer a motion to commit the rules package to committee for further examination. While this motion traditionally loses, it does give the minority party the opportunity to include "instructions" to the committee for changes in the text of the proposed rules. These instructions are, in essence, an amendment, which typically contains selected portions of the minority's rules package. The outcome, however, remains certain: the majority party's rules package prevails.

²⁶ In 1971, the "previous question" motion to end debate on H.Res. 5 was defeated by a bipartisan coalition which sought to drop from the rules package a proposal permitting the automatic discharge of a measure from the Rules Committee if that committee had not acted on it within 31 days. This coalition voted against ordering the "previous question" motion. Thereafter, the 31-day rule was removed from the rules package by floor amendment, and the rules package passed overwhelmingly. It should be noted that the consideration of H.Res. 5 was delayed by one day by unanimous consent, and the House operated under "general parliamentary law" for most of the two session days. See "Rules of the House," *Congressional Record*, vol. 117, January 21, 1971, pp. 13-15; and "Rules of the House," *Congressional Record*, vol. 117, January 22, 1971, pp. 132-144.

practices for the duration of the Congress. Resolutions are often adopted designating certain minority party employees to special pay status, providing for a joint session of Congress to receive the President's State of the Union message, and providing for conditional adjournments of the House. Resolutions of condolence on the death of any Member that occurred subsequent to the adjournment of the last Congress may also be considered.

Some resolutions are dependent on specific circumstances and do not occur on the first day of every new Congress. For example, following a presidential election, the House must adopt a resolution providing for the counting of electoral votes for the President and Vice President by the new Congress, continue the Joint Congressional Committee on Inaugural Ceremonies, and authorize the use of the Capitol for inaugural activities.²⁷

After the House has completed its initial organizational proceedings, it may then turn to the routine business which normally completes its legislative day. This includes the introduction of bills and resolutions, the receipt of messages from the President, and one-minute and special order speeches.

Author Contact Information

Judy Schneider
Specialist on the Congress
jschneider@crs.loc.gov, 7-8664

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This report was originally written by Mildred Amer, former CRS specialist on the Congress.

²⁷ *Congressional Record*, daily edition, vol. 151, January 4, 2005, pp. H32-H33.

Other first day activities are dependent on specific circumstances and do not occur on the first day of every new Congress. For example, following a presidential election, the Senate must adopt a resolution to meet in joint session with the House to count the electoral votes for the President and Vice President, 14 continue the Joint Congressional Committee on Inaugural Ceremonies, and authorize the use of the Capitol for inaugural. After the Senate has completed initial organizational proceedings, it may turn to routine business, which normally completes the legislative day. This business includes the introduction of bills and resolutions, appointments of Senate officials, and additional statements from Senators.