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

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

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 participating in or watching those 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 the 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, as well as 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 usually extends throughout January and often 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 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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The First Day of a New Congress: A Guide to Proceedings on the House Floor

Introduction

The House of Representatives follows a well established routine on the opening day of a new Congress. The proceedings include election of the Speaker, swearing in its members, election of administrative officers, and adoption of rules of procedure. Also, resolutions assigning its 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 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 104th Congress convened on January 4, 1995, the 105th Congress convened on January 7, 1997, and the 106th convened on January 6, 1999. The 107th Congress, however, is scheduled to convene on January 3, 2001. 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.²

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 present. 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 answered

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, 1996), pp. 153-159. For information on organizational meetings held prior to the formal start of a new Congress, see: U.S. Library of Congress, Congressional Research Service, *Congress' Early Organizational Meetings*, by Judy Schneider, CRS Report 96-657 GOV (Washington: July 30, 1996).

² See House Rule II, clause 2, Sec. 641 in Charles W. Johnson, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*. H. Doc. 105-358, 105th Cong., 2nd sess. (Washington: GPO, 1999).

to their names, a quorum (218) is proved present. This action fulfills the requirements of Article I 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 Commissioner from Puerto Rico (when applicable), the Delegates (one each) from the District of Columbia, Guam, the U.S. Virgin Islands, and American Samoa,³ and reports any deaths or resignations since the election.⁴

A quorum being present, the first order of official business is the election of the presiding officer, the Speaker of the House of Representatives.⁵

Election of the Speaker

The candidates for Speaker are nominated from the floor by the chairs of their party groups.⁶ Traditionally, there is one candidate from the majority party and one from the minority party, selected by the Republican Conference and the Democratic Caucus, respectively, at their early organizational meetings. Debate on the nomination of candidates for Speaker is allowed but not customary.⁷ Instead, the nominations are followed immediately by a *viva voce* roll call vote—that is, a vote in which the Members-elect respond orally to the calling of their names. In this vote, the Members-elect call out the last name of their choice for Speaker when their name is called by the clerk. The clerk appoints Members-elect to serve as majority and minority tellers, usually two each, to ascertain the vote.⁸ The majority party is able to assure the election of its candidate because the vote is usually along straight party lines.⁹ The candidates, however, customarily vote “present.”¹⁰

³ The Resident Commissioner from Puerto Rico serves a four-year term.

⁴ The clerk [Jeffrey J. Trandahl], “Resignation As Member of the House of Representatives,” *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, p. H2.

⁵ For more information on the Speaker, see: U.S. Library of Congress, Congressional Research Service, *The Speaker of the House: House Officer, Party Leader, and Representative*, by James V. Saturno, CRS Report 97-780 (Washington: Dec. 22, 1999). See also House Rule I.

⁶ Although the Speaker has always been a Member of the House, this is not a requirement. At the commencement of the 105th Congress, in addition to the two party nominees, two former Members as well as another Member received votes for Speaker.

⁷ 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*, daily edition, vol. 143, Jan. 7, 1997, pp. H2-H3.

⁸ Tellers are Members or clerks who count votes cast on the House floor. Vote totals are announced but not the vote of individual Members.

⁹ Note that the Independent Members usually vote for one of the party candidates for Speaker.

¹⁰ In the 105th Congress, one Member who received a vote for Speaker cast his vote for a former Member of the House.

ELECTION OF SPEAKER¹¹

The following excerpts are the proceedings for the election of the Speaker in the 106th Congress.

The CLERK. Pursuant to law and to precedent, the next order of business is the election of the Speaker of the House of Representatives for the 106th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS. Mr. Clerk, ... As Chairman of the Republican Conference, I am directed by the unanimous vote of that conference to present for election to the Office of the Speaker of the House of Representatives for the 106th Congress, the name of the Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois.

The CLERK. The Clerk now recognizes the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Clerk, as Chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the office of the Speaker of the House of Representatives for the 106th Congress ... the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri. The CLERK. The Honorable J. DENNIS HASTERT, a Representative-elect from the State of Illinois, and the Honorable RICHARD A. GEPHARDT, a Representative-elect from the State of Missouri, have been placed in nomination.

Are there any further nominations?

There being no further nominations, the Clerk will appoint tellers.

The Clerk appoints the gentleman from California (Mr. THOMAS), the gentleman from Connecticut (Mr. GEJDENSON), the gentlewoman from New Jersey (Mrs. ROUKEMA), and the gentlewoman from Ohio (Ms. KAPTUR).

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 choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.¹²

¹¹ All excerpts are taken from the *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, pp. H2-H4.

¹² Prior to the voting for Speaker in the 106th Congress, a parliamentary inquiry was made by (continued...)

The CLERK. The tellers agree in their tallies that the total number of votes cast is 427, of which the Honorable J. DENNIS HASTERT of the State of Illinois has received 222, and the Honorable RICHARD A. GEPHARDT of the State of Missouri has received 205, with two voting present.

Therefore, the Honorable J. DENNIS HASTERT of the State of Illinois is duly elected Speaker of the House of Representatives for the 106th Congress, having received a majority of all votes cast.

Swearing In of the Speaker

Next, the newly elected Speaker, escorted by leaders of both parties and often Representatives-elect from his home state, is introduced to the chamber by the minority leader, who first delivers a short statement from the chair. The Speaker responds with a statement of his own and then takes the oath of office.¹³ 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. His oath is identical to that of the other Members.¹⁴

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 non-voting Delegates and Resident Commissioner:

I do solemnly swear 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).

Occasionally, the swearing in of a Member-elect is delayed. 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. When the oath is not administered in the House chamber, it is usually given by other Members or judges to Representatives-elect not able to appear in person in the House. The locations have often been at other sites

¹² (...continued)

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.”

¹³ 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*, daily edition, vol. 145, Jan. 6, 1999, pp. H4-H5.

¹⁴ Representative John Dingell (D-MI) was the dean of the House in the 106th Congress.

in Washington or other parts of the country. This has happened several times in recent years.¹⁵

Sometimes, the swearing in of a Member-elect is challenged. When this happens, 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.¹⁶

Announcement of Party Leaders¹⁷

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. WATTS. Mr. 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 their majority leader the gentleman from Texas, the Honorable RICHARD K. ARMEY.

¹⁵ In the 104th Congress, Representative J.C. Watts of Oklahoma took his oath of office on January 9, 1995, in the House chamber. See The Speaker [Rep. Newt Gingrich], "Swearing In of the Honorable J.C. Watts," *Congressional Record*, vol. 141, Jan. 9, 1995, p. 842. In the 105th Congress, the swearing in of Representatives-elect Frank Tejeda of Texas and Julia Carson of Indiana were delayed because of illness. Representative Tejeda was sworn in January 8, 1997, and Representative Carson on January 9, 1997. Both were sworn in by Federal judges outside Washington. 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*, daily edition, vol. 143, Jan. 7, 1997, p. H29. In the 106th Congress, two ill Representatives, George Miller, and Sam Farr, were sworn in at their California homes by judges on January 7, 1999, and January 8, 1999, respectively. Representatives Elton Gallegly and Fortney Stark of California and Alan Mollohan of West Virginia took the oath of office on January 19, 1999, in the House Chamber. 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*, daily edition, vol. 145, Jan. 6, 1999, pp. H217-H218, and The Speaker [J. Dennis Hastert], "Swearing in of Members-Elect," *Congressional Record*, daily edition, vol. 145, Jan. 19, 1999, p. H247

¹⁶ This last occurred on January 3, 1985, when the seating of Member-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, "Assembly of Congress," pp. 459-463, 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, Jan. 3, 1985, pp. 381-388.

¹⁷ The excerpts are taken from the *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, p. H6.

MINORITY LEADER

Mr. FROST. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as minority leader the gentleman from Missouri, the Honorable RICHARD A. GEPHARDT.

The chairmen then announce the names of those elected to serve as majority and minority whip. 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.¹⁸ 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 are debated, although the slate can be divided with a separate vote on any or all officers.¹⁹ Again, however, because of their 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 the 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. The majority party's rules package has always prevailed.

¹⁸ 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.

¹⁹ Rep. John Boehner, "Election of Clerk of the House, Sergeant Arms, and Chaplain," *Congressional Record*, daily edition, vol. 143, Jan. 7, 1997, p. H7, and Rep. J.C. Watts, "Election of Clerk of the House, Sergeant Arms, and Chaplain," *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, p. H6.

In the 104th Congress, with a change in party control for the first time in some 40 years, there were major changes in the House rules.²⁰ These included term limits for the Speaker (no more than four consecutive Congresses) as well as for committee and subcommittee chairs (no more than three consecutive Congresses). A ban on proxy voting in committees and subcommittees was also adopted. In addition, the House modified its sunshine rules to provide for more open committee sessions; voted to require a three-fifths majority vote for all tax increases; mandated a comprehensive House audit and other administrative reforms; and abolished some committees, renamed others, and consolidated jurisdictions.²¹

In the 105th Congress, the House approved a more modest rules package.²² Included was a provision allowing the incumbent members of the House Committee on Standards of Official Conduct to finish a pending investigation by serving on a temporary Select Committee on Ethics through January 21, 1997. The new rules also prohibited the distribution of campaign contributions on the House floor, provided for the development of a system of drug testing for Members, officers, and employees, clarified voting on increases in income tax rates, and required non-governmental agencies testifying before House Committees to provide a list of federal grants and contracts received in the past three years. In addition, the name of the Committee on Economic and Educational Opportunities was changed to the Committee on Education and the Workforce.²³

At the commencement of the 106th Congress, the House adopted its rules in a recodified, substantially revised format.²⁴ This was the first comprehensive revision of its rules since 1880, and the number of rules was cut nearly in half. Included in the rules changes were provisions to encourage committees to plan oversight activities before the convening of a new Congress, establishment of a limit of six subcommittees for committees that maintain an oversight committee, and two ethics-related changes. One requires committee consultants to abide by the Code of Official Conduct and the other conforms House rules to the Supreme Court decision relating to honoraria.

In addition, the names of three committees were changed. The House Oversight Committee was renamed the Committee on House Administration, the Committee on Government Reform and Oversight was renamed the Committee on Government

²⁰ Rep. Richard Arme y, "Rules of the House." *Congressional Record*, vol. 141, Jan. 4, 1995, pp. 462-530.

²¹ For more information see, U.S. Library of Congress, Congressional Research Service, *Committee System: Rules Changes in the House, 104th Congress*, by Judy Schneider, CRS Report 95-187 GOV (Washington: Jan. 24, 1995).

²² Rep. Richard Arme y, "Rules of the House," *Congressional Record*, daily edition, vol. 143, Jan. 7, 1997, pp. H8-H27.

²³ For more information see, U.S. Library of Congress, Congressional Research Service, *Committee System: Rules Changes in the House, 105th Congress*, by Judy Schneider, CRS Report 97-138 GOV (Washington: Jan. 23, 1997).

²⁴ Rep. Richard Arme y, "Rules of the House," *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, pp. H6-H207.

Reform, and the Committee on National Security was renamed the Committee on Armed Services.²⁵

Before the adoption of its rules, the House operates under general parliamentary law as modified by certain traditional House rules and practices.²⁶ This has been interpreted to mean the rules of the House applicable in the previous Congress. Pursuant to this principle, the one-hour rule of debate is utilized. In the one hour of debate controlled by the majority party to discuss its rules package, the minority uses its share of the time to discuss its own alternative proposal. However, the minority substitute is never formally offered.

The majority party offers a motion for the previous question at the end of the one hour of debate on their own package. Their numerical advantage assures the adoption of that motion. Its effect is to force an immediate vote on the question of final passage of their own pending rules package. Therefore, any opportunity on the part of the minority to offer an amendment is precluded.

Again, in accordance with the principle 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 that 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 rules prevail.

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.

²⁵ For more information see, U.S. Library of Congress, Congressional Research Service, *Committee System: Rules Changes in the House, 106th Congress*, by Judy Schneider, CRS Report RS20017 (Washington: Jan. 22, 1999).

²⁶ For a summary of the procedures the House follows in the brief period of time it is in session to the formal adoption of its own rules, see William Holmes Brown, “Assembly of Congress,” pp. 157-158.

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 cannot 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.

For the 106th Congress, the majority party’s resolution (H.Res. 6) and the minority party’s resolution (H.Res. 7) designating committee chairmen and committee assignments were adopted on the first day, January 6, 1999.²⁷ In addition, on the opening day of the 106th Congress, the House approved H.Res. 8, committee assignments for the one Independent Member of the House as requested by the chairman of the Democratic Caucus.²⁸ Remaining committee assignment resolutions were acted on through March.

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 policies with respect to certain floor 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 subsequent to 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

²⁷ Rep. J.C. Watts, “Election of Majority Members to Certain Standing Committees of the House,” *Congressional Record*, daily edition, vol. 145, Jan. 9, 1999, p. H207, and Rep. Martin Frost, “Election of Minority Members, Delegates, and Resident Commissioner to Certain Standing Committees of the House,” *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, pp. H207-H208. Note also that the Speaker subsequently announced the majority members of the Select Committee on Intelligence. See Rep. J. Dennis Hastert, “Appointment of Members of House Permanent Select Committee on Intelligence,” *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, p. H221.

²⁸ Rep. Martin Frost, “Election of Minority Member to Certain Standing Committees of the House,” *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, p. H208.

Congressional Committee on Inaugural Ceremonies, and authorize the use of the Capitol for inaugural activities.²⁹

On the first day of the 106th Congress, the House adopted a resolution (H.Res. 10) appointing the authorizing managers and implementing the necessary procedures for the impeachment trial of the President.³⁰

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

²⁹ *Congressional Record*, daily edition, vol. 143, Jan. 7, 1997, pp. H28-H29.

³⁰ Rep Henry Hyde, "Providing for Certain Appointments and Procedures Relating to the Impeachment Proceedings," *Congressional Record*, daily edition, vol. 145, Jan. 6, 1999, pp. H211-H217.