



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

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Summary

The Senate follows a well-established routine on the opening day of a new Congress. The proceedings include swearing in new members, administrative business, and election of the President pro tempore, the constitutionally mandated officer elected to preside over the chamber in the absence of the Vice President. Other first day activities are dependent on specific circumstances and do not occur on the first day of every new Congress. Once these proceedings are completed, the Senate may then turn to routine business. The Senate committee assignment process begins prior to the convening of a new Congress and continues throughout the beginning days of a new Congress.

Article I, Section 2 of the Constitution provides for a system of staggered six-year terms for Senators, one-third of their terms expiring at the conclusion of each Congress. Thus, the Senate is a continuing body and does not have to reorganize itself each new Congress and adopt new rules and elect new leaders as does the House of Representatives. Any changes in Senate leadership take place in the party conferences prior to the opening day, and there are no floor votes to ratify these changes.

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The Senate Convenes¹

The Constitution (20th Amendment, Section 2) mandates that a new Congress convene at noon on January 3 in each odd numbered year, unless it has earlier passed a law designating a different day. The 111th Congress will convene on January 6, 2009.² In recent years, it has been the exception rather than the rule for a new Congress to begin on January 3. Six out of the last seven Congresses—104th (January 4, 1995), the 105th (January 7, 1997), the 106th (January 6, 1999), the 108th Congress (January 7, 2003), the 109th (January 4, 2005) and the 110th (January 4, 2007)—convened on another date. Only for the 107th Congress was the beginning date unchanged.

The Vice President normally presides when the Senate first convenes, and the Senate chaplain offers a prayer. The Vice President then announces the receipt of the certificates and credentials of election of the newly elected Senators. The reading of these documents is waived, and they are subsequently printed in full in the *Congressional Record*.³

Oath of Office

The first order of business in a new Senate is the swearing in of newly elected Senators, including reelected incumbents. Before this action is taken, however, the Majority Leader sometimes provides a brief history of the oath of office and the two leaders give welcoming remarks.⁴ If there are any contested elections, the leadership may provide a brief status report and plan for their resolution.⁵ Then, the Vice President calls the newly elected Senators to the front of the chamber in alphabetical order in groups of four to take the oath and to “subscribe to the oath” in the official oath book.⁶ Each Senator is often accompanied by the other Senator from the same state, the Senator he or she is replacing, or a former Senator.⁷

The oath, which is the same for Representatives, is as follows:

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.

¹ For information on organizational meetings held prior to the formal start of a new Congress, see CRS Report RS21339, *Congress' Early Organization Meetings*, by Judy Schneider.

² See P.L. 110-430 enacted on Oct. 15, 2008.

³ The Vice President, “Certificates of Election and Credentials,” *Congressional Record*, daily edition, vol. 153, Jan. 4, 2007, pp. S1-S4.

⁴ Sen. Lott, “The Oath We Take,” *Congressional Record*, vol. 143, Jan. 7, 1997, pp. 4-5.

⁵ See, for example, the last contested Senate election: Sen. Lott, “Louisiana Election Contest,” *Congressional Record*, vol. 143, Jan. 7, 1997, p. 5.

⁶ Each Senator is allowed to keep the pen he or she uses to sign the historic oath book, which contains the signatures of all U.S. Senators. A Senator signs this book each time he or she takes the oath of office.

⁷ Richard A. Baker [Senate Historian], *Traditions*, 110th Cong., 1st, Sess., S. Pub. 110-11, pp. 3-4; <http://www.senate.gov/reference/resources/pdf/Traditions.pdf>, visited Oct. 3, 2008.

This oath is mandated by Article VI of the Constitution, and its text is set by statute (5 U.S.C. 3331).

When Senators take the oath, they raise their right hand to swear or affirm the oath, repeating after the Vice President. Many have held a family bible or other sacred text in their left hands.⁸ There is no requirement of any kind that a bible or anything else be used when the oath is taken. The same is true for Senators who re-enact the event with their families in the old Senate chamber with the Vice President after the formal ceremony. Photographers are present, and many Senators choose to hold something meaningful in their left hand. These objects have been, but are not limited to, a family heirloom or something else meaningful to the Senator. Some Senators have held nothing, and nothing is required.

Notification to the Other Body and to the President

The Senate clerk then calls the roll, and the Majority Leader offers resolutions that the House and the President be formally notified that a quorum of the Senate is assembled and ready to proceed to business.⁹ Subsequently, the House and Senate leadership telephone the President with the news that Congress is ready to begin its work.

Election of the President Pro Tempore

The President pro tempore is elected by the Senate to preside during the absence of the Vice President.¹⁰ Often referred to as the “President Pro Tem,” this majority party Senator usually has the party’s longest continuous Senate service and often, by virtue of seniority, chairs a committee.¹¹ If expecting to be unavailable for chamber duties, the President pro tempore appoints other Senators to preside. In the 110th Congress, the President pro tempore is Senator Robert Byrd (D-WV).

When there is a change in party control of the Senate, or a vacancy occurs, the President pro tempore is elected by resolution and then escorted to the front of the chamber to be sworn in by the Vice President.¹² Afterwards, the Senate adopts a resolution to notify the President of the election of the President pro tempore.

From the beginning of the 104th Congress through the middle of the first session of the 106th Congresses, Senator Strom Thurmond (R-SC) was the President pro tempore. In June 2001, when party control of the Senate changed, Senator Robert Byrd (D-WV) became the President pro

⁸ Ibid.

⁹ A quorum is the minimum number of Members required to be present for the transaction of business. Under the Article I, Section 5 of 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. See also Congressional Research Service, “Congressional Quarterly’s American Congressional Dictionary,” <http://www.crs.gov/products/guides/glossary/q.shtml>, visited Sept. 30, 2008.

¹⁰ The Constitution specifies that the Vice President is the presiding officer of the Senate. The Vice President, however, usually presides only on opening day, during ceremonial occasions, and when needed to cast a tie-breaking vote.

¹¹ The President pro tempore holds that office during his or her Senate term and is not reelected at the beginning of a new Congress unless there is a change in party control.

¹² Sen. Reid, “Election of the Honorable Robert C. Byrd As President Pro Tempore,” *Congressional Record*, daily edition, vol. 153, Jan. 4, 2007, pp. S5-S6.

tempore.¹³ In the 107th Congress, because the Senate was evenly divided on the opening day,¹⁴ Senator Byrd, a Democrat, was elected to serve as President pro tempore until January 20, 2001, and Senator Thurmond, a Republican, was elected to serve after January 20, 2001, when Albert Gore, a Democrat, was succeeded as Vice President and President of the Senate by Richard Cheney, a Republican.¹⁵ Subsequently, when Richard Cheney became the Vice President and President of the Senate, Senator Thurmond again became President pro tempore. He took the oath of office on January 20, 2001. That same day, the Senate adopted resolutions notifying the President and the House of Representatives of the election of the new President pro tempore.¹⁶

Daily Meeting Time for the Senate

The Senate establishes its daily hour of meeting by a resolution which must be renewed each session of Congress. This resolution is usually offered by the Majority Leader.

Election of Officers

Since the Senate is a continuing body, its officers (Secretary of the Senate, Sergeant at Arms, and Chaplain) do not need to be reelected on the opening day of a new Congress. However, when there is a change in party control and/or a replacement of officers at the beginning of a Congress, they have to be approved by the full Senate.¹⁷ This was the case on the opening day of the 110th Congress when a new Secretary of the Senate and a new Sergeant at Arms were elected.¹⁸

The respective party secretaries are often replaced at the beginning of a Congress. They are approved by their party conferences and then elected by the Senate. These individuals, however, are not considered Senate officers.

Other First-Day Floor Actions

Other routine organizational business is taken up on the Senate floor on the first day, including unanimous consent requests to expedite the daily business of the Senate. At the beginning of the 110th Congress, the Senate adopted 12 orders *en bloc* by unanimous consent, including floor privileges for staff.¹⁹ In addition, the two leaders may lay out the highlights of the legislative

¹³ Sen. Daschle, "Election of the Honorable Robert C. Byrd as President Pro Tempore," *Congressional Record*, vol. 147, June 6, 2001, p. 10013.

¹⁴ Proceedings at the convening of the Senate in the 107th Congress were somewhat different than other opening days because the Senate was evenly divided, with 50 Republicans and 50 Democrats. When Congress convened on January 3, 2001, Vice President Albert Gore, a Democrat, was still President of the Senate, providing Senate Democrats with an effective majority of one. Subsequently, at noon on January 20, 2001, when Republican Richard Cheney was sworn in as Vice President, Senate Republicans took control of the Senate.

¹⁵ Sen. Daschle, "Election of the Honorable Robert C. Byrd As President Pro Tempore and Election of the Honorable Strom Thurmond as President Pro Tempore," *Congressional Record*, vol. 147, Jan. 3, 2001, p. 7.

¹⁶ Sen. Roberts, "Notification to the President of the United States," and "Notification to the House of Representatives," *Congressional Record*, vol. 147, Jan. 20, 2001, p. 149.

¹⁷ Whenever there is a change in Senate officers, their selection must be approved by the Senate. For information on the Senate officers, see CRS Report 98-418, *Senate Administrative Officers and Officials*, by Lorraine H. Tong.

¹⁸ "Electing Nancy Erickson As the Secretary of the Senate," and "Electing Terrance W. Gainer As the Sergeant At Arms and Doorkeeper," *Congressional Record*, daily edition, vol. 153, pp. S6-S7.

¹⁹ Sen. Reid, "Unanimous Consent Requests," *Congressional Record*, daily edition, vol. 153, Jan. 4, 2007, p. S8.

schedule ahead and discuss pertinent issues.²⁰ Sometimes on the first day, the Senate adopts resolutions providing for adjournments and for the joint session at which Congress receives the President's State of the Union message.

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,²¹ continue the Joint Congressional Committee on Inaugural Ceremonies, and authorize the use of the Capitol for inaugural activities.²² On the first day of the 106th Congress, there were several announcements and a discussion related to the pending impeachment trial of the President.²³

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.

During adjournment periods preceding the start of a new Congress, the Secretary of the Senate is authorized to receive, on behalf of the Senate, messages from the House of Representatives, the President, and the executive departments. On the first day of a new Congress, the presiding officer will present these messages to the Senate to allow it to take any action that may be necessary.²⁴

Committee Organization

The committee assignment process begins prior to the convening of a new Congress, and mostly within the party groups—the Republican and Democratic conferences. The only action visible on the chamber floor is the adoption of resolutions assigning Senators from each party to committees agreed upon by the respective party conference. 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.²⁵

²⁰ For the opening day remarks of the leaders of the 110th Congress, see Sen. Reid, "A New Congress," *Congressional Record*, daily edition, vol. 153, Jan. 4, 2007, pp. S8-S11; and Sen. McConnell, "The 110th Congress," *Congressional Record*, daily edition, vol. 153, Jan. 4, 2007, pp. 11-13.

²¹ Sen. Frist, "To Provide for Counting of Electoral Votes for President and Vice President of the United States," *Congressional Record*, daily edition, vol. 151, Jan. 4, 2005, p. S6. This takes the form of a joint session with the House of Representatives.

²² Sen. Frist, "To Extend the Life of the Joint Congressional Committee on Inaugural Ceremonies," *Ibid.*, p. S7.

²³ Sen. Lott, "The Public's Access to the Impeachment Proceedings," "Unanimous—Consent Agreement—Senate Access," and "Senate Agenda," *Congressional Record*, vol. 145, Jan. 6, 1999, pp. 7-11.

²⁴ On the first day of the 106th Congress, the Senate received a message from the House announcing that it had impeached the President and adopted articles of impeachment which the House managers had been instructed to carry to the Senate. See "Messages from the House Received Subsequent to Sine Die Adjournment," *Congressional Record*, vol. 145, Jan. 6, 1999, pp. 14-15.

²⁵ Note, however, that each party must abide by certain Senate rules governing the assignment process. See CRS Report RL30743, *Committee Assignment Process in the U.S. Senate: Democratic and Republican Party Procedures*, by Judy Schneider.

On the opening days of the 108th through 110th Congresses, there were no committee assignment resolutions. They were considered on other days. On the opening day of the 107th Congress, the only committee assignment resolution taken up was one that designated committee chairs.²⁶ Due to the Senate's equal division in that Congress, Democrats chaired committees prior to January 20, 2001. Effective January 20, 2001, with the inauguration of the Republican President and Vice President, Republican Senators became committee chairmen.²⁷ This arrangement lapsed when Democrats regained control of the Senate for the balance of the 107th Congress on June 6, 2001.

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²⁶ Sen. Daschle, "Senate Resolution 7—Designating the Chairmen of the Following Senate Committees," *Congressional Record*, vol. 147, Jan. 3, 2001, pp. 14-15.

²⁷ The Senate's equal party strength was accompanied by a broader agreement between the parties to modify certain Senate practices during the 107th Congress. See CRS Report RS20785, *The Senate Powersharing Agreement of the 107th Congress (2001-2003): Key Features*, by Elizabeth Rybicki; and CRS Report RL30881, *Senate Organization in the 107th Congress: Agreements Reached in a Closely Divided Senate*, by Elizabeth Rybicki.